Supreme Court, U.S.
FILED

No. 10-_____

10128.4 APR 15 2011

OFFICE OF THE CLERK

In The

Supreme Court of the United States

In Re H. Clark Ford, III,

Petitioner

On Petition For Writ Of Habeas Corpus
To The United States Court Of Appeals
For The Tenth Circuit

APPENDIX PAGES 303-646

VOLUME II

H. Clark Ford, III, pro se
P.O. Box 424
Hagerman, New Mexico 88232-0424
1-575-627-7086
1-575-625-2000

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CERTIFIED MAIL: #7005-0390- 0004-0872-0351

In rem: Notice of Default

H. Clark Ford III
PO Box 424
Hagerman New Mexico 88232

Against

UNITED STATES DEPARTMENT OF TREASURY
Hon. John Snow Secretary
1500 Pennsylvania Avenue NW
Washington DC 20224

Respondent

PETITION FOR DEFAULT
(Filed March 28, 2007)

NOTICE OF DEFAULT

One, H. Clark Ford III, petitions for entry of default Respondent John Snow UNITED STATES TREASURY SECRETARY and DIRECTOR OF INTERNATIONAL AFFAIRS for failure to rebut petitioner's "Filing Statement in Affidavit Forms for Tax Years 1997-2002 and 2004-2005. All mailed to your agency or agencies on or before April 15th of the respective previous years, with the exception of 2003, wherein Petitioner demanded a rebuttal by affidavit, within 30 days of receipt of the "Filing Statement in Affidavit form". Return for 2003 had been sent in a timely manner as the other returns, however, H. Clark Ford III has lost record of it and is now filing another return at this time with the same stipulations. H. Clark Ford III hereby swears and deposes under

penalty of perjury that he has not received any affidavits in rebuttal from the UNITED STATES DEPARTMENT OF TREASURY; the DIRECTOR OF INTERNATIONAL AFFAIRS or any agency thereof; therefore, the Respondent has acquiesced and is in statutory default for the above stated years.. This Default Notice shall evidence that H. Clark Ford III is correct in his analysis of the filing requirements and other tax inquiries contained within the "Filing Statement in Affidavit Form". By this Default Notice, the Respondent is estopped from any further action against the Natural Human Person of the Petitioner and is without judicial standing, as no controversy in law or material fact between the two parties exists.

/s/ H. Clark Ford III
Petitioner

NOTORIAL

COUNTY OF CHAVES
STATE OF NEW MEXICO

On this day of March, 2007 One, H. Clark Ford III, came before me a Notary Public in and for the people of The State of New Mexico, One, H. Clark Ford III, personally known by me, in my presence, under oath declared the truth of the above Statement Filing.

/s/ Robin Purcella
Notary Public

[SEAL]

9/29/07
My Commission Expires:

CERTIFICATE OF SERVICE

One, H. Clark Ford III hereby certifies that the Petition for Default and Default Notice was served by registered mail, by the United States Postal Service on March 28th 2006 to:

UNITED STATES DEPARTMENT OF TREASURY
Hon. John Snow Secretary
1500 Pennsylvania Avenue NW
Washington DC 20224 Certified Mail #
7005-0390-0004-0872-0351

And

DIRECTOR OF INTERNATIONAL ~~AFFAIRS~~
[Operations]
Operations
Internal Revenue Service
Washington, D.C. 20044 Certified Mail #
7005-0390-0004-8271-0313

And

Mike Pryor ID # 84 10124
12600 Colfax Ave
Suite C-300
Lakewood Colorado 80215

Certified Mail # 7005-0390-0004-0872-0283

H. Clark Ford III, sui juris

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only: No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com®:

OFFICIAL USE
Washington D.C. 20044

7005 0390 0004 0872 0313

Postage	$	0.63	[SEAL]
Certified Fee	$	2.40	
Return Receipt Fee (Endorsement Required)	$	1.85	Postmark Here
Restricted Delivery Fee (Endorsement Required)	$	0.00	
Total Postage & Fees	$	4.88	03/28/2007

Sent To
[INT. OPERATIONS]

Street, Apt. No.; or PO Box No.

City, State, Zip + 4
[20044]

PS Form 3800, June 2002 See Reverse for Instructions

CERTIFIED MAIL: #7005- 0390- 0004- 0872- 0313
In rem: Notice of Default

H. Clark Ford III
PO Box 424
Hagerman New Mexico 88232

Against

Director of International Operation
Internal Revenue Service
Washington DC 20044

Respondent /

PETITION FOR DEFAULT
Filed March 28, 2007

NOTICE OF DEFAULT

One, H. Clark Ford III, petitions for entry of default Respondent John Snow UNITED STATES TREASURY SECRETARY and DIRECTOR OF INTERNATIONAL AFFAIRS for failure to rebut petitioner's "Filing Statement in Affidavit Forms for Tax Years 1997-2002 and 2004-2005. All mailed to your agency or agencies on or before April 15th of the respective previous years, with the exception of 2003, wherein Petitioner demanded a rebuttal by affidavit, within 30 days of receipt of the "Filing Statement in Affidavit form". Return for 2003 had been sent in a timely manner as the other returns, however, H. Clark Ford III has lost record of it and is now filing another return at this time with the same stipulations. H. Clark Ford III hereby swears and deposes under penalty of perjury that he has not received any affidavits in rebuttal from the UNITED STATES

DEPARTMENT OF TREASURY; the DIRECTOR OF INTERNATIONAL AFFAIRS or any agency thereof, therefore,the Respondent has acquiesced and is in statutory default for the above stated years.. This Default Notice shall evidence that H. Clark Ford III is correct in his analysis of the filing requirements and other tax inquiries contained within the "Filing Statement in Affidavit Form". By this Default Notice, the Respondent is estopped from any further action against the Natural Human Person of the Petitioner and is without judicial standing, as no controversy in law or material fact between the two parties exists.

/s/ H. Clark Ford III
Petitioner

NOTORIAL

COUNTY OF CHAVES
STATE OF NEW MEXICO

On this day of March, 2007 One, H. Clark Ford III, came before me a Notary Public in and for the people of The State of New Mexico, One, H. Clark Ford III, personally known by me, in my presence, under oath declared the truth of the above Statement Filing.

/s/ Robin Purcella
Notary Public

[SEAL]

9/29/07
Commission Expires:

2/26/2007
Certified Mail # 7005-0390-0004-0872-8320

RE: H. Clark Ford III

Internal Revenue Service
Attention: David C. Iglesias
United States attorney
c/o Cynthia L. Weisman,
assistant U.S. attorney

Subject: SUMMONS

Revoked SS # [Social Security Number Omitted]
H. Clark Ford III
P.O. Box 424
Hagerman, New Mexico
America
Near: [88232] NON-Domestic Years 1996 thru 2006

REFUSUAL OF SUMMONS FOR FRAUD IN AFFIDAVIT OF PROBABLE CAUSE FORM

IMPLIED LEGAL NOTICE TO:
David C. Iglesias c/o Cynthia L. Weisman
Notice of Crime and request for investigation and findings pursuant to:
18 U.S.C. Sec. 1001, and 26 U.S.C. Sec. 7214 and, 18 U.S.C. Sec. 371, and, 18 U.S.C. Sec. 912, and 26 U.S.C. Sec. 7213 and 7216
MISAPPLICATION OF TITLE 26 USC §7602 SIGNING OF FALSE DOCUMENTS AND MAIL FRAUD

Dear Cynthia Weisman;

This letter will serve as Implied Legal Notice to Michael J. Pryor # 84-10124 that the Summonses

served against H. Clark Ford III, are unauthorized by Statute and in error. The Internal Revenue Service's Summons Form [form # 2039], relied on Section 7602 of the Internal Revenue Code as the reference for legal evidence of authority of law to summon me for the purpose of gathering information leading to the collection of tax. I have grave concerns relative to your authority to issue the summons as well as the potential of exposing me to possible prosecution should this civil matter evolve in character into that of a criminal investigation. I will not permit any waiver of my Amendment 1, IV or V Right against self-incrimination as would be the case, were I to voluntarily submit the information you have demanded without first having received in writing use immunity for said information.

Your alleged authority under Title 26 of the United States Code is hereby refuted by the following legal analysis and rebutted by law. Therefore, all legal presumption of evidence of law is removed. It would appear that you, Michael J. Pryor # 84-10124], are misapplying Title 26 §7602 and misusing the authority of this section for the collection of information against me, signing false documents and fraudulently using the U.S. Mail Service to affect an illegal discovery, under color of law.

The Summons purports to be "issued under authority of the Internal Revenue Code" but does not substantiate this claim by providing the required implementing regulations. The Summons purports to be for the purpose " . . . to give testimony and to bring with you

and to produce for examination the following books, records, papers, and other data relating to the tax liability or the collection of the tax liability or for the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws".

There was no indication of providing use immunity for any such testimony.

The Fifth Amendment of the Constitution of the United States protects the individual, stating:

"No person shall be compelled in any criminal case to be a witness against himself. . . ."

The Fifth Amendment seems to apply only to criminal matters, but the Supreme Court ruled in *McCarthy v. Arndstein*, 266 US. 34, that the Fifth Amendment *" . . . applies alike to criminal and civil proceedings."* Similar rulings have stated:

"There can be no question that one who files a return under oath is a witness within the meaning of the Amendment. Sullivan v. United States, 15 F. 2nd 809, and

'The information revealed in the preparation and filing of an income tax return is, for Fifth Amendment analysis, the testimony of a "witness" as, that term is used herein.' Garner v. United States, 424 US. 648.

I am well aware that the fifth amendment will not preclude an IRS agent from seeking information to determine a tax liability if no return has been filed as

your letter of February 7 alludes, however, I have filed a return for years 2001-2005 in compliance to section 6011A of Title 26. Matter is that I have done so for years beginning in 1997. Simply because I did not file a 1040 does not connote that I failed to send in a "return." The Secretary has not rejected or denied these returns since 1997. They meet the requirements set forward at section 3121(e). Furthermore Michael J. Pryor # 84-10124 has already found a tax liability in as much as he gave my bank a NOTICE OF LEVY on February 28th 2006 (Exhibit A). How did he arrive at a figure with out determining a liability? I accepted his figures twice and both times, he treated my offer with dishonor (Exhibits B C D and E). Michael J. Pryor # 84-10124 has confessed to not having the authority or standing to pursue these matters thru tacit procuration. He has also admitted thru the same mode of communication that there exists no summary assessment (Exhibits F and G). The NOTICE OF LEVY at exhibit A is arbitrary and capricious.

Understand there may be severe penalties under 18 USC §§241 and 242 which you may be personally subjecting yourself to if you fail to follow the proper due process procedures required by law and outlined in the Internal Revenue Service policy manual for any unlawful activity by you, against me.

The U.S. Supreme Court has established that the authority of laws in the Internal Revenue Code is dependent upon the regulations promulgated by the

Secretary. As stated in *California Bankers Assn. v. Schultz* 416 U.S. 21, 26 (1974):

" . . . we think it important to note that the Act's civil and criminal penalties attach only upon violation of regulations promulgated by the Secretary if the Secretary were to do nothing, the Act itself would impose no penalties on anyone."

None of the presentments I have reviewed contained the implementing regulations upon which your alleged authority exists. Title 44 U.S.C. §1501 et seq., provides that regulations having general applicability must be published in the Federal Register. Those not having general applicability and legal effect or effective only against federal agencies or persons in their capacity as officers, agent, or employees thereof, need not be published (44 U.S.C. §1505). The Internal Revenue Service records show, or should show, that I am not an employee, officer or, agent of any federal, state agency or instrumentality.

The Code of Federal Regulations Index and Finding Aide Parallel Table of Authorities shows the location of published regulations. I give notice that section 7602 has no implementing regulation under Title 26 and agent Pryor is not an enforcement agent as described in section 7608

Title 26 USC §§7602, 7603, 7604 and 7605 deal with a Summons issued under internal revenue laws. The CFR Index and Finding Aid Table of Authorities inform us that the regulations for these statutes are found in the Title 27 CFR, which deals exclusively

with taxable alcohol, tobacco or firearm activities. The Internal Revenue Service records show, or should show that I am not involved in any taxable alcohol, tobacco or firearm activities and strict proof is demanded to the contrary.

Authority is only provided to internal revenue enforcement officers described in 26 U.S.C. §7608 and its regulations in 27 CFR Parts 70, 170 and 296. Michael J. Pryor # 84-10124 agent, has never been identified as a section 7608 government person in any of the writings associated with this instant matter, nor is it stated that he is acting pursuant to authority in 27 CFR Part 70, 170 or 296. Please so identify your status as an enforcement officer and agency, and if you are proceeding pursuant to 27 CFR Part 70, 170 and 296 as your authority, with your collection activity against me.

If your lack of authority is not readily apparent to you after reviewing, the pertinent Statutes and Regulations above I invite your attention to the following.

The Internal Revenue Code, Title 26 of the U.S. Code has not been enacted as positive law. Please see United States Code Service, 1 USC §204, page 52 (1993). Title 26 USC is shown to be simply prima facie evidence of law and is presumed valid until rebutted. I hereby rebut Title 26 of the United States Code as being evidence of law, by Acts of Congress and settled case law on the subject.

The laws that apply to the general public of the 50 Union States are referred to as the Statutes at Large.

These Statutes are clear as to the taxable activities and to those liable for these activities as shown by the Statutes at Large and the Federal Court decisions.

" . . . *official source for United States laws is Statutes at Large. United States Code is only prima facie evidence of such laws.*" ***Toyer's Inc. v. United States*** *265 F2d 615, 59-1 (1959, CA3 Pa.)*

"*Statutes at Large are legal evidence of laws contained therein and are accepted as proof of those laws in any court of the United States*". ***Bear v. United States,*** *810 F2d 153.*

Unless Congress affirmatively enacts Title 26 of the United States Code into law, Title 26 is only "prima facie" evidence of law. *Preston v. Heckler*, 734 F2d 1359, (1984, CA 9 Alaska).

Where Title has not been enacted into positive law, title is only prima facie or rebuttal evidence of law, and if construction is necessary, recourse may be had to original statutes themselves. *United States v. Zuger*, 474 U.S. 805 (1985)

Where there is conflict between codification and Statutes at Large, Statutes at Large must prevail. *American Export Lines, Inc. v. United States*, 429 U.S. 817 (1976); *Stephan v. United States*, 319 U.S. 423 (1943); *United States v. Welden*, 377 U.S. 95 (1964); *Best Food, Inc. v. United States*, 147 F Supp 749 (1956)

Internal Revenue Code construction to Statutes at Large must be made by individual section and

subsection since each section and subsection is derived from their own set of Statutes at Large pamphlet, Joint Committee in Taxation. "Derivations of Code Sections of the Internal Revenue Codes of 1939 and 1954 (JCS-1-92), January 21, 1992, U.S. Government Printing Office." *United States v. Wodtke*, 871 F2d 1092 (1985), ND Iowa).

As can be easily understood, the Statutes at Large prevail over dispute of Code, which is the situation in the instant matter with regard me. For your total comprehension, perhaps a review of the following is in order.

Authority to Summon – The summons authority of the Internal Revenue Service rests in Title 26 USC Section 7602. Legal presumption of lawful authority of Section 7602 is hereby refuted and rebutted as to the authority to summon me for the following reasons.

Section 7602 of the 1986 Internal Revenue Code is derived from Section 7602 of the 1954 Code that was derived from the 1939 Code. By tracing the genesis of this Code to its origin and the species of taxes for which a summons could be authorized, I find only one specific section where such a tax is mentioned. This species of tax can be located at 14 Statutes at Large 471, Section 1 of the Revised Statutes of 1867, which clearly describes that **authorization and summons authority only applies to cotton**.

I was not and am not now involved in any taxable event involving cotton, for the years in question.

There has been no amending of the Statute at Large or appeal as of this date that changes the original intent of Congress. The CFR index is in complete harmony with the Statutes at Large, as the implementing regulation for Title 26 USC §7602 is Title 27 CFR Parts 170 and 296. The Bureau of Alcohol, Tobacco and Firearms, dealing only with collection of excise taxes promulgated the regulations in Title 27.

I invite your attention to the CFR Index, page 803, which by reference is incorporated herein. The implementing regulation for Title 26 §7602 is Title 27 Part 70, 170 and 296, which is a regulation that applies to the Bureau of Alcohol, Tobacco and Firearms. This agency collects stamp taxes, which is the species of tax applicable to cotton and distilled spirits.

According to 1 CFR §21.21 each agency shall publish its own regulations and may not cross-reference to another agency unless it meets the exceptions as published in the Federal Register. Please identify the Statute at Large section that authorizes the Internal Revenue Service to collect stamp taxes. Also, please identify by date, volume and page number in the Federal Register where cross-referencing regulations from Title 27 to Title 26 is authorized, as I am unable to locate them as being recorded.

Consequently, since there is no statutory authority allowing the Internal Revenue Service to summon any records not relating to a stamp tax on cotton or distilled spirits, you are acting single-handedly and without authority, under color of law. Unless you can

provide me with documentation to the contrary, you are violating my constitutional right to due process of law, the Statutes at Large, Internal Revenue Service regulations, Internal Revenue Manual rules and Internal Revenue Code and do so at your own peril.

Therefore, I demand you immediately withdraw from this summons action for discovery of my records from either first or third parties. Such activity constitutes an invasion of my personal effects where there is no probable cause to do so.

Should this summons action continue against me, or if you fail to respond to this Implied Legal Notice and Notice of Crime, within (20) Twenty days, I will exercise all legal remedies pertaining to the misconduct, and the aiding and abetting thereof pursuant to Section 1203 of the Restructuring and Reform Act of 1998, as you have been given Implied Notice of the prevailing law. There may also be legal remedy available for me in the state circuit courts. Time is of the essence.

A copy of this Notice will be sent to the appropriate Congressman. I will ask him to look into your misapplication of 26 USC §7602, regarding me. I will ask the Congressman to contact your office and inquire as to whether the Tax Restructuring and Reform Act of 1998 is being administered to the letter and spirit of the law by the IRS, District Director, according to the mandate of Congress.

If there is any section or amendment within the Statutes at Large that rebuts the legal analysis I have

presented, please forward it to me at once. Upon receipt of a proven rebuttal of the aforementioned Codes, and Regulations as supported by the Statutes at Large, I will pay any tax for which there is a liability, and to do so expeditiously.

This Implied Legal Notice, and Notice of Crime, is intended as a rebuttal to the legitimacy of all claims made in the Form 2039 Summons issued by Michael J. Pryor # 84-10124, and placing the personal responsibility of verifying the pertinent law contained in the Implied Legal Notice, herein, by you. Pursuant to Rule 301, Federal Rules of Evidence, the contents of this timely Implied Legal Notice is accepted by you the Service and connected agencies, as accurate if not countered in affidavit form by you or someone competent to know the law, with proofs, including, but not limited to, the taxable activity, which the IRS records claim I am involved in and produce a bonafide grant of use immunity for any and all information, documents and testimony the IRS wants or receives from me, whether through Michael J. Pryor # 84-10124, or others.

Request for investigation

Cynthia L. Weisman, Assistant U.S. Attorney, this letter of mine contains legal opinions and legal conclusions. To the extent that you require assistance in understanding my correspondence or in the preparation of a response to it, please provide a copy to your upline United States Attorney David C. Iglesias, and

forward it to me, in which you provide legal argument or offer legal conclusions, and certify your bar membership and license to practice law in the republic State of New Mexico, where I am Domiciled. If your letter was issued with the intent to secure my agreement and participation with the observed violations of public law and IRS procedures. I am not at liberty to act as an accommodation party to a fraudulent proceeding. I am required to report this unlawful course of action to the proper authorities. If you are the proper authority to receive this report, pursuant to the following relevant provisions of law, I demand a report of the progress of your investigation of the matters and allegations outlined, and certification under oath that you are not aiding and abetting Michael J. Pryor # 84-10124 in the violations outlined below.

Notice of Crime and request for investigation and report of findings Pursuant to 18 U.S.C. Sec. 1001, and 26 U.S.C. Sec. 7214 and, 18 U.S.C. Sec. 371, and, 18 U.S.C. Sec. 912, and 26 U.S.C. Sec. 7213 and 7216

The statement of your letter that an *IRS summons* has been issued is not supported by the agency procedures and public law references that follow. The authority, and procedure for the issuance of an internal revenue summons is found at, Internal Revenue Procedure 84-62 1984-2 This procedure rendered obsolete "the Form 2039" and directs authorized Internal Revenue Service personnel, to use *Form*

6687 Collection Summons, Collection Information Statement, *Form 6688*, Collection Summons, Income Tax return; and *Form 6689*, Collection Summons, Financial Records. clearly, articulating the proper IRS summons forms to be used as; Form "6687, 6688, and 6689". The "District Director" is identified as the responsible official having authority to issue a summons

While the power to issue is asserted, the authority to *serve* a previously issued summons is the point of argument . . . It is the *power to issue* said summons not the authority to *serve one*; that is the issue in this instant case. Form 2039 has clearly been reserved for use by another agency, BATF who by regulation and order of the secretary may not re-delegate that power. See 27 U.S.C., and at 27 C.F.R. Part 70 Subpart C Sec. 70.22(b) *May not be re-delegated.*

It appears that the language of sec 7602 authorizes any employee of the service to serve a summons but the power to issue a summons has clearly been reserved for higher officials. *See Sillier v. Board of Control of Michigan College of Mining and Technology*, 333 Mich. 681, 53 N.W.2d 681, 684 (1952) Revenue agent Michael J. Pryor # 84-10124 has by-passed the administrative procedures of the Internal Revenue Service, and has proceeded to engage in acts prohibited by Federal law and against the public policy. The two summonses that are attached to your letter of February 7 gives evidence that Michael J. Pryor # 84-10124 not only issued two summonses that he has no authority for which to issue but also served the same

summonses that he illegally issued. Thus, your letter of February 7 instructs me to comply with two summonses under these circumstances bearing no OMB numbers. Even if these summonses had been legal, I would be hard pressed to show up on 500 N. Richardson five months ago.

It is agreed that the IRS power to summons exists. The exercise of that power is not unlimited, *Cudahy Packing Co. v. Holland*, 315 U.S. 357, 363, 364, 62 S.Ct. 651, 655 (1942) "Unlimited authority of an administrative officer to delegate the exercise of the subpoena power is not lightly to be inferred. *It is a power capable of oppressive use, especially when it may be indiscriminately delegated and the subpoena is not returnable before a judicial officer* . . . But the subpoena is in form of an official command, and even though improvidently issued it has some coercive tendency, either because of ignorance of their rights on the part of those whom it purports to command or their natural respect for what appears to be an official command, or because of their reluctance to test the subpoena's validity by litigation. All these are cogent reasons for inferring an intention of Congress not to give unrestricted authority to delegate the subpoena power which it has in terms granted only to the responsible head of the agency. Any show cause petition in federal court in favor of the INTERNAL REVENUE SERVICE can only result thru an abuse of discretion

Observed Violations

The following violations of law
are observed and hereby reported

It is alleged that Mike Pryor has Violated the following:

1) P.L. 105-206 (7-22-98). Internal Revenue Restructuring and Reform Act of 1998 By disregarding congressional mandate to follow agency procedure.

2) 26 U.S.C. Sec. 7214 by signing a false and unauthorized Form 2039

3) 18 U.S.C. Sec. 1001 by knowingly and willfully making false or fraudulent statement to agency of United States

4) 18 U.S.C. Sec. 1341 by knowingly and willfully uttering false or fraudulent statements through the Unites States Postal Service. mail fraud.

5) 18 U.S.C. Sec. 371 conspiracy to violate United states [sic] statutes.

6) 26 U.S.C. Sec. 7213 and 7216 unauthorized disclosure.

7) 18 U.S.C. Sec. 912 False Personating. Mike Pryor knowingly and willfully held himself out to be the District Director of the Internal revenue [sic] Service and or an statutory authorized officer of the BATF.

Respectfully,

/s/ H. Clark Ford III

H. Clark Ford III
PO Box 424
Hagerman New Mexico
88232

H. Clark Ford III
U.S. National/Non Resident Alien

State of New Mexico — INDIVIDUAL
COUNTY OF CHAVES — ACKNOWLEDGMENT

Before me, the undersigned, a Notary Public in and for said County and State on this 26th day of Feb, 2007, personally appeared H. Clark Ford III to me known to be the natural man who executed the within and foregoing instrument and acknowledged to me that he executed the same as his free and voluntary act.

Given under my hand and seal the day and year last above written.

My commission expires 9/29/07

[SEAL] Robin Purcella Notary Public

SEAL:

I, H. Clark Ford III, on this 26th day of February do depose and affirm that a full and complete copy of the above has been sent to:

_____

PERSONAL SERVICE OF
PROCESS-HAND DELIVERED

H. Clark Ford III
PO Box 424
Hagerman New Mexico 88232
Petitioner

Against **Demand for Record of Assessment**
For Tax years 1996-2006

Michael Pryor #84-10124
Internal Revenue Service
12600 W. Colfax Ave
Lakewood Colorado 80215
Respondent

Now comes H. Clark Ford III to petition Internal Revenue Agent Michael Pryor #84-10124 for a **Demand for Record of Assessment For Tax years 1996-2006**. According to 26 CFR 301. 6203-1. Mr. Ford is to be supplied with the pertinent parts of the assessment record which include:

1. The name of the taxpayer for each and every record of assessment.

2. The date of the assessment asserting that a certified assessment officer signed the assessment on those particular dates for each and every record of assessment.

3. The character and the liability for which the record of assessments were made.

4. The applicable tax period for each of the years demanded.

5. The true value of the amount of assessment for each assessment period.

This demand is sent by personal service of process. Failure to produce these assessments within 10 days of process will conclude that no such assessments exist for the above years. If more time is requested it will be allowed within reason.

Respectfully Submitted.

/s/ H. Clark Ford III

H. Clark Ford III
PO Box 454
Hagerman New Mexico 88232

H. CLARK FORD III
P.O. BOX 424
HAGERMAN, NM 88232

Petitioner,

Vs.

MICHAEL PRYOR #84-10124
INTERNAL REVENUE SERVICE
12600 W. COLFAX AVENUE
LAKEWOOD, CO 80215

Respondent.

AFFIDAVIT OF SERVICE OF PROCESS

STATE OF COLORADO)
CITY AND) ss.
COUNTY OF DENVER)

I, Cameron A. Hegedus, Jr. (print name), do here by swear and affirm that I am over the age of 18 years and not a party to this matter, and that on the 31st day of May, 2006 I delivered a copy of a Demand for Record of Assessment to-wit: Michael Pryor #84-10124, Internal Revenue Service Agent, at 12600 W. Colfax Avenue, Lakewood, Colorado 80215. at 9:38 a.m.

Furthermore Affiant sayeth naught.

/s/ Cameron A. Hegedus, Jr.
Affiant Cameron A. Hegedus, Jr.

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED BEFORE ME THIS 1st DAY OF June, 2006.

(SEAL)

/s/ Carmelita Benavidaz
Notary Public
438 Bannock Street
Denver, CO 80204

MCE

My commission expires: 06-26-06 [SEAL]

H. Clark Ford III
PO Box 424
Hagerman New Mexico 88232
Petitioner

Notice of Default

Against

Michael J. Pryor # 84-10124
Internal Revenue Service
12600 W. Colfax Avenue
Lakewood Colorado 80215
Respondent

Now comes H. Clark Ford III to issue to Michael J. Pryor Agent to the Internal Revenue Service **Notice of Default**. On May 31st 2006, the Respondent was hand delivered a **Demand for Record Assessment for Tax Years 1996-2006**. This demand is sanctioned under section 6203 to Title 26 of the US code. The Demand requested the assessments within 10 days of process and allowed more time if requested. Today's date is July 12, 2006. Mr. Pryor did not request anymore time and the 10 days have lapsed. To date there fails to be a production.

Respectfully submitted,

/s/ H. Clark Ford III

H. Clark Ford III.
PO Box 424
Hagerman New Mexico 88232

STATE OF NEW MEXICO
COUNTY OF CHAVES

NOTORIAL

Notary Public

On the date set out below, the foregoing **Notice of Default** was sworn and signed in my presence by (~~Your Name~~) H. Clark Ford, III, known to me.

/s/ Lori J. Doerhoefer
Notary Public

7/12/06
Date

[SEAL]

March 13, 2008
My commission expires.

RETURN OF SERVICE

Case No.

STATE OF COLORADO)
) ss.
City & County of Denver)

I, Cameron A. Hegedus, Jr., the affiant, being duly sworn, say: that I am over the age of eighteen years and am not a party to the within action; and that I have served MICHAEL J. PRYOR #84-10124, a true and correct copy of the within Notice of Default, together with Notorial, by handing and delivering to MICHAEL J. PRYOR #84-10124 personally, at 12600 West Colfax Avenue, Building C, Unit 300, City of Lakewood, County of Jefferson, State of Colorado, on July 19, 2006 at 10:05 A.M.

/s/ Cameron A. Hegedus, Jr.
Cameron A. Hegedus, Jr.
Private Process Server

Subscribed and sworn before me on July 20, 2006.
My commission expires on 02-07-07.

[SEAL]

/s/ Maricie Finonton
Notary Public
438 Bannock Street
Denver, CO 80204

To: Michael J. Pryor 84-40124
Internal Revenue Service
12600 W. Colfax Ave.
Lakewood Colorado 80215-3733

Hand Delivered

From: H. Clark Ford III
P.O. Box 424
Hagerman New Mexico 88232

Date: September 5th 2006

Notice of Acceptance for Value and Demand for Delegation of Authority, Oath of Office, and Bond, of Michael J. Pryor regarding a Summons, Form # 2039, Request N 09-2006-0001

Dear Michael Pryor,

I accept your offer to contract, and will submit **for your inspection the documents you requested by way of the above referenced form singed** [sic] **by you on August 11th 2006** (see attachment form 2039). I agree to comply with the findings of said inspection. This agreement presumes that any individual reviewing these documents has on file at the time of review, 1) Delegation of authority to request and review, 2) Oath of office, 3) Bond, and agrees to make a good faith "Offer of Proof" of items 1-4 listed below to H. Clark Ford III, prior to any review of the information contained in the documents submitted in "good faith" and in accord with principles of fair dealing and the clean hands doctrine.

Offer of Proof Required

1. Your constitutional oath of office, as required by 5 U.S.C. § 3331;

2. Your civil commission as agent or officer of Government of the United States;

3. Your affidavit declaring that you did not pay for or otherwise make or promise consideration to secure the office (5 U.S.C. § 3332); and

4. Your personal official bond or surety bond as required in 26 USC § 7101; or

a. An obligation as security instead of a surety bond in 31 USCA § 9303; or

b. A single bond in lieu of multiple bonds approved by the director in 26 USC § 7102;

c. As required in 26 CFR § 301.7101-1, including the bonding as required in the 1939 and 1954 Internal Revenue Codes.

d. A copy of the contract, memorandum of agreement or any comparable instrument entered into by the Internal Revenue Service and the Department of the Treasury of the United States, authorizing the IRS to operate in an ancillary or other secondary capacity to provide services under original authority vested in the Treasury Financial Management Service or some other bureau of the Department of the Treasury of the United States.

These documents should all be filed as public records. See 5 U.S.C. § 2906 for requirements concerning filing oaths of office. In the event you do not have a

personal surety bond, you may provide a copy of your financial statement, which you are required to file annually. Your financial statement will be construed as a private treaty surety bond in the event that you exceed lawful authority.

It is agreed that by your reviewing, inspecting or otherwise disclosing the personal information contained in this "good faith" acceptance of your offer, that you are currently vested with and will produce for inspection prior to any review, the specific items listed 1-4 above. It is further agreed that your failure to provide the required Offer of Proof will void any obligation that may be determined by your findings.

Response Required

"Time is of the essence"; I will grant you ten days to provide the required offer of proof; if you are unable to produce the required Offer of Proof within Ten (10) days from your receipt of this offer, your request for more time to obtain and produce the Proof will be granted. Otherwise a default will be entered against you.

All Rights Reserved

/s/ H. Clark Ford III

H. Clark Ford III (natural born individual whose name is not spelled in all upper case)

Enclosed Summons form 2039

Notary Public

I Robin Purcella a Notary Public for the State of New Mexico, do affirm that H. Clark Ford III a natural person known by me, signed this Notice of Acceptance For Value and Demand for Delegation of Authority, Oath of Office, and Bond, of Michael J. Pryor regarding a Summons, Form # 2039 on the 5th day of September, 2006 in the County of Chaves; State of New Mexico.

[SEAL] /s/ Robin Purcella

My commission expirers [sic] on 9/27/07

IN REFERENCE TO NOTICE OF ACCPTENACE [sic] **FOR VALUE AND DEMAND FOR DELIGATION OF AOUTHORITY** [sic], **OATH OF OFFICE, AND BOND, OF MICHAEL J. PRYOR REGARDING A SUMMONS, FORMA FORM # 2039, REQUEST #09-2006-0001.**

AFFIDAVIT OF SERVICE OF PROCESS

STATE OF COLORADO)
) **ss.**
COUNTY OF)

I, Cameron A. Hegedus, Jr., do hereby swear and affirm that I am over the age of 18 years, and that I am not a party to this lawsuit. I further state that on the 6th day of September 2006*** I delivered a copy of Notice of Acceptance for Value and Demand for

Delegation of Authority, Oath of Office, and Bond, of Michael J. Payor [sic] regarding a Summons, form #2039, Request # 09-2006-0001. Answer to-wit:

***at 3:31 p.m.

Michael J. Payor [sic] ***84-10124***
Internal Revenue Service
12600 W. Colfax Ave.
Lakewood Colorado 80215-3733

Furthermore Affiant sayeth naught.

/s/ Cameron A. Hegedus, Jr.
Cameron A. Hegedus, Jr.
Private Process Server

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED BEFORE ME THIS 7th DAY OF September, 2006.

(SEAL)

/s/ Carmelita Benavidez — 06-26-10
Notary Public in and for — MCE
the State of ~~NM~~ Colorado
438 Bannock Street
Denver, CO 80204
303-778-7630

[SEAL]

Book 7570 Page 1093

To: Michael J. Pryor 84-10124
Internal Revenue Service
12600 W. Colfax Ave.
Lakewood Colorado 80215-3733

Registered Mail RR-849-286-305 US

From: H. Clark Ford III
Po Box 424
Hagerman New Mexico 88230
Date November 16th 2006

Second Notice of Acceptance for Value
the Delegation of authority, Oath of Office,
and Bond, of Michael Pryor
regarding a Summons, Form # 2039,
Request # 11-2006-0002

Dear Michael Pryor,

I accept your offer to contract, and will submit for your inspection the documents you requested by way of the above referenced form, and letters. I agree to comply with the findings of said inspection. This agreement presumes that any individual reviewing these documents has on file at the time of review, 1) Delegation of authority to request and review, 2) Oath of office, 3) Bond, and agrees to make a good faith "Offer of Proof" of items 1, 2, 3 and four above, to H. Clark Ford III, prior to any review of the information contained in the documents submitted in "good faith" and in accord with principles of fair dealing and the clean hands doctrine.

Book 7570 Page 1094

Offer of Proof Required

1. Your constitutional oath of office, as required by 5 U.S.C. § 3331;

2. Your civil commission as agent or officer of Government of the United States;

3. Your affidavit declaring that you did not pay for or otherwise make or promise consideration to secure the office (5 U.S.C. § 3332); and

4. Your personal official bond or surety bond as required in 26 USC § 7101; or

a. An obligation as security instead of a surety bond in 31 USCA § 9303; or

b. A single bond in lieu of multiple bonds approved by the director in 26 USC § 7102;

c. As required in 26 CFR § 301.7101-1, including the bonding as required in the 1939 and 1954 Internal Revenue Codes.

d. A copy of the contract, memorandum of agreement or any comparable instrument entered into by the Internal Revenue Service and the Department of the Treasury of the United States, authorizing the IRS to operate in an ancillary or other secondary capacity to provide services under original authority vested in the Treasury Financial Management Service or some other bureau of the Department of the Treasury of the United States.

These documents should all be filed as public records. See 5 U.S.C. § 2906 for requirements concerning filing oaths of office. In the event you do not have a

personal surety bond, you may provide a copy of your financial statement, which you are required to file annually. Your financial statement will be construed as a private treaty surety bond in the event that you exceed lawful authority.

It is agreed that by your reviewing, inspecting or otherwise disclosing the personal information contained in this "good faith" acceptance of your offer, that you are currently vested with and will produce for inspection prior to any review, the specific items 1, 2, and 3 and 4 listed above, of this offer. It is further agreed that your failure to provide the required Offer of Proof will void any obligation that may be determined by your findings.

Response Required

"Time is of the essence", if you are unable to produce the required Offer of Proof within Ten (10) days from your receipt of this offer, your request for more time to obtain and produce the Proof will be granted. Otherwise a default will be entered against you.

All Rights Reserved

/s/ H. Clark Ford III
H. Clark Ford III

Registered Mail # RR 849-286-305-US

Notary Public

I Robin Purcella a Notary Public for the State of New Mexico, do affirm that Tracy Ford is a natural person, who's [sic] signature appears above, appeared before me on this 16th day of November, 2006 in the County of Chaves State of New Mexico.

[SEAL] /s/ RobinPurcella
9/29/07

[SEAL]

STATE OF NEW MEXICO,
COUNTY OF CHAVES, ss
FILE FROM RECORD Nov 17,
2006 at 10:29:54 o'clock AM
Receipt No. 283188 Fee $ 11.00
Book 570 Page 1093 Pages 2
To Whom Returned
H. CLARK FORD III
WILL PICK UP

RHODA C COAKLEY,
COUNTY CLERK

By /s/ [Illegible] Deputy

Registered No. RR849284812US			Date Stamp
To be Completed By Post Office	Reg. Fee $9.35	[redacted]	Domestic insurance up to $25,000 is included in the fee International Indemnity is limited (See Reverse)
	Handling Charge $0.00	Return Receipt $1.85	
	Postage $0.52	Restricted Delivery $0.00	
	Received by [Illegible]		
	Customer Must Declare Full Value $500.00	☒ With Postal Insurance ☐ Without Postal Insurance	
	OFFICIAL USE		

To be Completed By Customer (Please Print) All Entries Must be in Ballpoint or Typed		
	FROM	H. Clark Ford III
		P.O. Box 424
		HagerMAN NEW MEXICO
		88232
	TO	MICHEAL [sic] PRYOR 89-10124
		INTERNAL REVENUE SERVICE
		12600 WEST Colfax AVE
		LAKEWOOD CO 80215

PS Form 3806, Receipt for Registered Mail Copy 1 – Customer

May 2004 (7530-02-000-9051)

(See information on Reverse)

For domestic delivery information, visit our website at www.usps.com

In rem: Notice of default

H. Clark Ford III
PO Box 424
Hagerman New Mexico 88232
Petitioner,

Against

MICHEAL [sic] J. PRYOR
AGENT # 84-10124
12600 West Colfax Avenue
Lakewood Colorado 80215
Respondent

Registered Mail
RR 849-284-812-US

PETITION FOR DEFAULT

NOTICE OF DEFAULT

One, H. Clark Ford III, petitions for entry of default *by the Notary* against respondent; MICHEAL [sic] J. PRYOR AGENT # 84-10124 of the Internal Revenue Service. For respondent's failure to produce an Offer of Proof to petitioner's "Notice of Acceptance for Value" received by respondent on September 6th 2006 the date of Receipt. Wherein petitioner demanded an Offer of Proof of respondent's authority to contract, within Ten (10) days of receipt of petitioners "Notice of Acceptance for Value", the respondent has failed to produce any Offer of Proof of authority to contract, or provide any response to petitioner's Notice. Therefore respondent MICHEAL [sic] J. PRYOR AGENT # 84-10124 has acquiesced, and is in statutory default. This Default Notice shall evidence that petitioner H. Clark Ford III has acted in good faith, clean hands and is correct in his analysis that Respondent MICHEAL [sic] J.

PRYOR AGENT # 84-10124 by his silence, has not acted in good faith, and is without authority to request, examine, or make any lawful determination regarding petitioner's personal documents. By this Default Notice the respondent is estopped from any further action against the Natural Human Person of the Petitioner and is without judicial standing, as no controversy in law or material fact between the two parties exists.

Declaration of Denial of Existence of Corporation

My name is: "**H. Clark Ford III**",
(Christian Appellation).

My name **Is Not: "H. CLARK FORD III"** (a [sic] entity)

/s/ H. Clark Ford III
H. Clark Ford III, Petition All Rights Reserved

DEFAULT

Default is entered in this action against the Respondent named in the foregoing petition for failure to respond or otherwise answer as required by law.

Notary Public

I Robin Purcella a Notary Public for the State of New Mexico, do affirm that H. Clark Ford III, a natural person, who's signature appears above, appeared

before me on this 19th day of September, 2006 in the County of Chaves State of New Mexico.

/s/ Robin Purcella

[SEAL] My commission expires 9/29/07

CERTIFICATE OF SERVICE

I, H. Clark Ford III, hereby certify that a true and correct copy of the Petition for default and Default was served by Registered Mail, on September 19th 2006 to Respondent MICHEAL [sic] J. PRYOR AGENT # 84-10124, Internal Revenue Service, 12600 West Colfax Avenue Lakewood Colorado 80215

/s/ H. Clark Ford III
H. Clark Ford III

Notary Public

I Robin Purcella a Notary Public for the State of New Mexico, do affirm that H. Clark Ford III, a natural person, who's [sic] signature appears above, appeared before me on this 19th day of September, 2006 in the County of Chaves State of New Mexico.

/s/ Robin Purcella

[SEAL] My commission expires 9/29/07

Registered No. RR 849 301 113US			Date Stamp
To be Completed By Post Office	Reg. Fee $50.00		Domestic insurance up to $25,000 is included in the fee International Indemnity is limited (See Reverse)
	Handling Charge $5.45	Return Receipt $1.85	
	Postage $ .39	Restricted Delivery	
	Received by PS		
	Customer Must Declare Full Value $50.00	☐ With Postal Insurance ☐ Without Postal Insurance	
	OFFICIAL USE		

To be Completed By Customer (Please Print) All Entries Must be in Ballpoint or Typed		
	FROM	H. Clark Ford III
		P.O. Box 424
		HagerMAN NEW MEXICO
		88232
	TO	Micheal [sic] J PRYOR #89-10124
		12600 WEST Colfax AVE
		INTERNAL REVENUE SERVICE
		LAKEWOOD Colorado 80215

PS Form 3806, Receipt for Registered Mail Copy 2 – Post Office
May 2004 (7530-02-000-9051)

SENDER *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

   Micheal [sic] J. PRYOR
   #84-10129
   12600 W. Colfax AVE
   Lakewood Colorado 80215

2. Article Number RR-849-248-812-US

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X /s/ Sonja Youngberg ☒ Agent ☐ Addressee

B. Received by (*Printed Name*)
X /s/ Sonja Youngberg

C. Date of Delivery
9/28/06
[SEAL]

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☐ Certified Mail ☐ Express Mail

☒ Registered ☐ Return Receipt for Merchandise

☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (*Extra Fee*) ☐ Yes

2. Article Number RR-849-284-812-US.
(Transfer from service label)

Book 0572 Page 0454

In rem: Notice of default

H. Clark Ford III
PO Box 424
Hagerman New Mexico 88232
Petitioner,

Registered Mail RR
849 301 113 US

Against

MICHEAL [sic] J. PRYOR
AGENT # 84-10124
Respondent
12600 West Colfax Avenue
Lakewood Colorado 80215
Respondent
November 16th 2006

Petition of Default

SECOND NOTICE OF NOTICE OF DEFAULT
Notice number 12-0006-0003

One, H. Clark Ford III, petitions for entry of default *by the Notary* against respondent; MICHEAL [sic] J. PRYOR AGENT # 84-10124 of the Internal Revenue Service. For respondent's failure to produce an Offer of Proof to petitioner's "Notice of Acceptance for Value" received by respondent on November 21st 2006 the date of Receipt. Wherein petitioner demanded an Offer of Proof of respondent's authority to contract, within Ten (10) days of receipt of petitioners "Notice of Acceptance for Value", the respondent has failed to produce any Offer of Proof of authority to contract, or provide any response to petitioner's Notice. Therefore, MICHEAL [sic] J. PRYOR AGENT # 84-10124 has acquiesced, and is in statutory default. This Default Notice shall evidence that petitioner H. Clark Ford III has acted

in good faith, clean hands and is correct in his analysis that Respondent MICHEAL J. PRYOR AGENT # 84-10124 by his silence, has not acted in good faith, and is without authority to request, examine, or make any lawful determination regarding petitioner's personal documents. By this Default Notice the respondent is estopped from any further action against the Natural Human Person of the Petitioner and is without judicial standing, as no controversy in law or material fact between the two parties exists.

Declaration of Denial of Existence of Corporation

My name is: "**H. Clark Ford III**",
(Christian Appellation).

My name **is not**: "**H. CLARK FORD III**" (a entity)

/s/ H. Clark Ford III
H. Clark Ford III, Petitioner All Rights Reserved

DEFAULT

Default is entered in this action against the Respondent named in the foregoing petition for failure to respond or otherwise answer as required by law.

_____

Notary Public

I Robin Purcella a Notary Public for the State of New Mexico, do affirm that H. Clark Ford III, a natural person, who's [sic] signature appears above, appeared

before me on this 4th day of December, 2006 in the County of Chaves State of New Mexico.

/s/ Robin Purcella

[SEAL] My commission expires 9/29/07

CERTIFICATE OF SERVICE

I, H. Clark Ford III, hereby certify that a true and correct copy of the Petition for Default and Second Notice Default was served by Registered Mail, on December 4th 2006 to Respondent MICHEAL [sic] J. PRYOR AGENT # 84-10124, Internal Revenue Service, 12600 West Colfax Avenue Lakewood Colorado 80215

/s/ H. Clark Ford III
H. Clark Ford III, Petitioner,

Notary Public

I Robin Purcella a Notary Public for the State of New Mexico, do affirm that H. Clark Ford III, a natural person, who's [sic] signature appears above, appeared before me on this 4th day of December, 2006 in the County of Chaves State of New Mexico.

/s/ Robin Purcella

[SEAL] My commission expires 9/29/07

[SEAL]

STATE OF NEW MEXICO,
COUNTY OF CHAVES, ss
FILE FROM RECORD Dec 5,
2006 at 9:50:09 o'clock AM
Receipt No. 283833 Fee $ 11.00
Book 572 Page 544 Pages 2
To Whom Returned
H. CLARK FORD III
WILL PICK UP

RHODA C. COAKLEY,
COUNTY CLERK

By /s/ [Illegible] Spivey Deputy

IN THE UNITED STATS [sic] **DISTRICT COURT**
DISTRICT OF NEW MEXICO

UNITED STATES AND
INTERNAL REVENUE SERVICE
Petitioner

07-mc016 JCH

v

H. Clark Ford III
Respondent

Response to Motion to Dismiss with Prejudice

(Filed Mar. 13, 2008)

Now comes H. Clark Ford III an natural living man filing in a special appearance **Response to Motion to Dismiss With Prejudice.**

To dismiss with prejudice is a tacit admission to a falsehood.

Mr. Ford came to Albuquerque on April 19 2007. The US District Court had summonsed him *for not having filed returns.* The IRS based the subpoena upon a false statement that Mr. Ford had not filed returns. The IRS also based the purpose for this action making a false accusation that Mr. Ford had previously failed to respond to a previous federal summons by filing the complaint under section 7604(b). Even though the petition complains about Ford "not having filed returns" there is no law before the court supporting this assertion. The Petitioner files this complaint

under sections 7402(b) and 7604 to Title 26 of the US code. Section 7402(b) renders jurisdiction where Ford is not geographically domiciled (Doc. 8 Aff. St. 6). Section 7604 says much the same things except that in subsection (b) it goes on to say:

Whenever any person summoned under section 6420(e)(2), 6421(g)(2), 6427(j)(2) or 7602 [26 USCS § 6420(e)(2), 6421(g)(2), 6427(j)(2) or 7602] neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony, as required . . . [1]

"7604(b) was intended only to cover persons who were summonsed and wholly made default or contumaciously refused to comply."[2] Ford has not refused to answer a summons in regards to any of the above sections; Ford has not been summons [sic] under the above sections of Title 26. Thus, the petition entered on March 12 2007 is structurally flawed and factually inaccurate. (Exhibit A Ford Affidavit). He has refused to succumb to the "administrative summonses" sent to him by IRS Agent Michael J. Pryor # 84-10124. This was after Agent Pryor had given tacit admission to being for a lack of delegated authority for which to issue summons form 2039 (Exhibits 14A-15B Doc. 5). The Petition accuses Ford of having refused to comply with 'judicial summonses" that have not been issued. He has never been summons [sic] under the above.

---

[1] 26 USCA 7604(b)

[2] *Reisman v. Caplin* 375 US 440

At no time has he refused to answer a "judicial summons". Neither of the sections that the court summonsed him under sport any verbiage of "no returns having been filed."

The summons issued against Ford on March 12 2007 asserted to Ford having previously refused to appear for a previous federal summons (see affidavit Exhibit A). This is an unsubstantiated conclusion for which there is no testimony. The IRS perused Mr. Ford as a "collective entity" of some kind of small business that had been evading taxes by not filing any returns. To submit to the motion filed by the petitioner at docket number 65, would be to admit to these kinds of innuendos, none of which the IRS has sustained thru any form of testimony.

After having been incarcerated by order of the court on June 7 2007, Ford reluctantly and under duress sat down with IRS agent Pryor on February 27 2008. This was with the understanding that Ford did not in any way summit to the authenticity of the two IRS summonses found hanging on his doorknob August 15 2006. He expressed his sediments in a preamble before Agent Pryor proceeded to question him. It is understood that Mr. Ford could find no other way to relieve himself of his incarceration (Please see transcript page 5 lns 11 thru page 8 line 11 exhibit B). Mr. Ford received his source form a trust that had already filed form 1041 for the tax periods at bar (See Transcript Exhibit B Pg. 11 lns. 17-23) the trust is the collective entity not Mr. Ford. (Exhibit B pg. 13 lns 16-25).

Ford does not agree to the movant's wording; it gives efficacy to summons form 2039 and it also gives a legitimate purpose to the issuance of a summons by one who failed to procure delegated authority for which to issue. The IRS has ridiculed Ford for making frivolous arguments. His arguments in law and fact have only been met with a sophistry in prose and a demeaning of a man's character; there has been no findings of fact to substantiate any of these conclusions nor has there been any law read to conclude that Mr. Ford did not file any returns or owes $100,000 to the IRS. A dismissal with prejudice at this time would assert the afore mentioned making damaging conclusions as to Mr. Ford's legal standing on these issues.

The judgment roll sports no evidentiary hearings to enable this court to grant the motion at docket number 65 with prejudice; there are a number of issues still floating about that would damage Mr. Ford due to their unresolve:

1. Mr. Ford evaded taxes for nine years by not filing any returns. This could leave him open to a federal indictment or a loss of his real and personal property.

2. Michael J. Pryor could use the information from the interview on Feb. 27 2007 to File SFR's under section 6020 even though it is unsubstantiated that Mr. Ford failed to file returns.

3. Mr. Ford will loose [sic] $100,000 because it is unresolved if he as a natural born entity owes this money or does not owe this money.

4. In spite of Ford having made a motion to strike incriminating judicial notice at docket number 49, this entry remains on public record to deprecate Mr. Ford's character as an active member of a tax protest group.

5. The 24-year tradition of the courts writing law to allow IRS collection agents to use a summons form that stands in the face of "congressional intent" will continue.

6. IRS Collection agents receive investigative authority from US District Courts

7. Mr. Ford is a collective entity representing some kind of small business.

We cannot be dismissing an action with prejudice that is for a lack any form of evidentiary hearing. The term "with prejudice" implies that all issues have been litigated and concluded. Unfortunately, there has been no litigation and no issues have been concluded.

Wherefore:

As a Matter of Law the Motion to Dismiss The Action With Prejudice Must Be Denied

Respectfully Submitted

/s/ H. Clark Ford III

H. Clark Ford III
Box 424
Hagerman New Mexico 88232

Certificate of Service

I H. Clark Ford III, The Applicant in the above styled cause here by affirm on this ___ day of February that a clear and accurate copy of **Response for Motion To Dismiss With Prejudice was** sent

To Cynthia Weisman
Office of the United States Attorney General,
district [sic] of New Mexico
PO Box 607 Albuquerque New Mexico 87103
Counsel for Petitioner petitioner

The last known address by way of United States Mail

On the 12th day of March 2008 by the US Postal Service.

By /s/ H. Clark Ford III

H. Clark Ford III –
Po Box 424
Hagerman New Mexico 88232

I, H. Clark Ford III, being of sound mind and not being under any form of duress or outer influence do here by swear to the following statements on this 12th day of January

February 2008.

1. The Affiant is the Respondent in the above styled cause 07-mc 016
2. Prior to having been summons [sic] to the US District Court District of New Mexico on March 12 2007, the Affiant had not been summons [sic] into this particular court under any federal code or regulation.
3. Specifically, the Affiant has at no time been summons [sic] into this particular court in regards to Title 26 of the US Code.
4. At no time has Affiant failed to make an appearance or respond to a *judicial summons* state or federal.
5. For the motion at hand, the Affiant reaffirms his sworn statements presented to this court in his Show Cause Declaration at docket number five and his Affidavit of Material facts at docket number eight

On this 12th day of March 2008 I, H. Clark Ford III, does solemnly swear under the penalty of perjury that the above five statements are true and correct to the best of my knowledge and belief.

/s/ H. Clark Ford III

Notary Public

I, Robin Purcella a Notary Public for the State of New Mexico, do affirm that H. Clark Ford III a natural person known by me, signed this **Ford Affidavit for Response to Motion to Dismiss With Prejudice**.

On the 12 day of March 2008 in the County of Chaves; State of New Mexico

/s/ Robin Purcella

[SEAL]

My Commission Expires on 9/29/2011

IN THE MATTER OF:

IRS

v.

H. CLARK FORD, III

INTERVIEW OF H. CLARK FORD, III

FEBRUARY 27, 2008

Kendra Tellez Court Reporting, Inc.
300 Central SW
Suite 1500-E
Albuquerque, NM 87102
505-243-5691
Fax 505-242-0313

RE: IRS VS. H. CLARK FORD, III

07-16JH

INTERVIEW OF H. CLARK FORD, III

February 27, 2008
9:45 a.m.
Regional Correctional Center
415 Roma Northwest
Albuquerque, New Mexico 87102

TAKEN BY: RICHARD L. KRAFT
ATTORNEY FOR
H. CLARK FORD, III

REPORTED BY: DESTENIE MARTINEZ P-180
KENDRA TELLEZ COURT
REPORTING, INC.
300 Central Avenue, SW,
Suite 1500-E
Albuquerque, New Mexico 87102

APPEARANCES

For H. Clark Ford, III:

Richard L. Kraft
KRAFT & HUNTER, LLP
111 West Third Street
Roswell, New Mexico 88202
(505) 625-2000

For Internal Revenue Service:

Agent Michael Pryor
Albuquerque, New Mexico 87102

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INTERVIEW OF H. CLARK FORD, III

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CERTIFICATE OF COMPLETION
OF DEPOSITION 20

[3] MR. PRYOR: Let me please open up the meeting. We're at Albuquerque 415 Roma Street, Regional Detention Center for a meeting and present are Horatio Clark Ford, III, attorney Richard Kraft, court reporter Destenie Martinez, and I'm Revenue

Officer, Mike Pryor, and before we get into this, I do have to specifically ask Mr. Ford if I have his permission to discuss tax matters in the presence of Mr. Kraft and Ms. Martinez since –

THE [sic] FORD: You do, absolutely, yes, sir.

MR. PRYOR: Thank you.

THE [sic] FORD: I want to start out by saying that I have a letter of good faith here constituting the cashier check for $100,000 for any taxes that might be due. I'm not stipulating that I owe this, but this is put forth in good faith. Hopefully it will –

Is this the whole letter? I only got [sic] the last page here.

MR. KRAFT: The letter in the envelope? How about the letter in the envelope?

THE [sic] FORD: Okay. Fine. It contains a cashier's check for $100,000 for taxes that may be due. I'm not the – the conveyance of this check does not stipulate that I accept, that it is due, but the letter –

MR. KRAFT: Let me just state – let me just state for the record there's an envelope to Mr. Pryor. [4] In the envelope is a letter signed by Mr. Ford, and in the letter it states the condition under which he's paying the check, and these would be the same conditions that you're going to read –

THE [sic] FORD: Yeah, same condition I'm going to read, yeah.

MR. KRAFT: And I'm, on behalf of Mr. Ford, am handing to you a cashier's check for $100,000.

MR. PRYOR: Okay.

MR. FORD: And that eliminates me from needing to answer questions six through thirteen, if I'm going to understand; is that correct, sir?

MR. PRYOR: Yes, the payment of the taxes makes moot the summons for a current financial statement to help us determine your ability to pay taxes if they're already assessed so, yes.

MR. FORD: So I only need to be answering questions one through five in Ms. Weisman's letter of February 7th?

MR. PRYOR: Yes, sir.

MR. KRAFT: And I'll give to you – here's a form which says "I Michael Pryor acknowledge receipt of a cashier's check, and it has the number – "

MR. PRYOR: "060784."

MR. FORD: " – payable to the Internal Revenue [5] Service in the amount of $100,000 issued for the benefit of H. Clark Ford, III." And I'd ask if you could sign one out. I'll give you a copy for your records.

MR. PRYOR: Okay.

MR. KRAFT: That the IRS has received that check.

MR. PRYOR: Okay. Okay. Excuse me for just a sec. I just noticed everything is dated February 27th, and I didn't read that into the record. So far – today is the 27th?

MR. KRAFT: Yeah, 2008.

MR. FORD: I'm going to ask that I be able to read a preamble before answering any questions, and that these – what I say here pertains to every question that I answer won't be repetitious, and it won't be any more haranguing or time spent on any of the legal aspects of what – what I think this is about. But just this statement that I make before, and it is applied to eight answers – questions that I answered, and/or documents that I might render forth, and also anything that Mr. Kraft might say on my behalf on helping to clarify my financial situations here.

"I have been incarcerated for over eight months now, since June 7, 2007. Each morning for the last 265 consecutive days, I have woken up in a jail cell and had my freedom taken from me.

[6] "Two summons have been previously delivered to me by – both issued on the 11th of August 2006, IRS Form 2039. I have maintained and continue to maintain that the two summons have been issued without authority or – and are written out on an invalid form.

"My answering questions is done under duress for the purpose of ending my incarceration. I understand that if I do not answer questions asked by IRS, I will remain incarcerated possibly for the life sentence the way the order has been written.

"By answering questions today, I'm reserving full rights to pursue my positions set out in my previous motions, briefs, and memorandums to the U.S. District Court and the U.S. Court – United States Court of Appeals for the 10th Circuit, and my answering questions is in no form or matter to be construed as my consenting to authority, procedure, or process of the IRS in issuing and serving the summons.

"I affirmatively state that I have been filing tax returns, and it is my sincere belief that I have not violated Section 7604(b) of Title 26.

"Under duress, I have deposited $100,000 with the IRS – has – has been demanded by the IRS. I dispute that I owe the IRS the $100,000 paid, and I disagree with the calculations made by the IRS that arrives at an [7] amount owed is $100,000.

"Under duress, I am providing to the IRS documents and will provide information to questions one through five of U.S. Attorney Cynthia Weisman's letter of February 7, 2007 regarding any remunerations I may have received for the period at far [sic].

"My providing documentation and answering questions is not to be construed in any matter or form as my granting consent to allow the security [sic] to fill

out Section 6020 of Title 26 of the U.S. any substitute for returns for me, and I expressly dispute that the IRS has the right to file any substitute returns for me.

"In addition to the above, I add the summation that in none of the returns that I have filed, have I made a self-assessment.

"What I have just stated is coming – continuing objections of each and every question that I ask – that is asked as if I restated each of the positions I just stated in their entirety after each question is asked and before providing my answer. What I have stated is continuing objection to each document that I produce as if I restated each of the positions I stated in their entirety after each question. is asked and prior to my producing each document.

"Mr. Kraft of Kraft & Hunter Law Firm, LLP may [8] have to help me with some of the answers. In the event he does so, the continuing objection as I just stated applies to each and every answer, and he provides or statements he makes as if they were restated for the entirety of the questions before each statement's [sic] made by him."

And with that, I am not going to make any more statements about law or duress or any other – my other conclusions as I would like to proceed with any questions that Mr. Pryor may have for me.

MR. PRYOR: Okay. Thank you. We're just dealing now with the summons regarding your income and need to file a tax return for the years 2001,

'02, '03, '04, '05 as you stated the first five questions on Ms. Weisman's demand letter of February 7.

MR. FORD: Yes, sir.

Q. (By Mr. Pryor) So first question for the year 2001 through 2005, did you bring documents showing any and all wages earned during those years?

A. I have no records of that. I didn't earn any wages or have any employment for that period of time.

Q. Did you perform any services on a contract basis for which you were paid by the – by the contract or by the part or job accomplished that were not current wage – W2 wages, but 1099 income?

[9] A. 1099 – no, 1099, no – no contract labor or services of any kind for that period.

Q. Okay. Question Number 2 then, for the years 2001, through December 31, 2005, did you bring documents showing interest and dividend income you received or that was received on your behalf for those years?

A. I've received no dividend income for those years.

Q. Okay. Was any dividend income received on your behalf, but not particularly in your name?

A. No, sir.

Q. Okay. Number 3, I think is a little bit repetitive, but documents showing employee earning statements for you for the years 2001 through 2005?

A. I was not employed by any – any entity during those years.

Q. Okay. For the years 2001 through 2005, did you bring documents showing deposits to bank accounts for you or on your behalf?

A. I've had no bank accounts in my name or for those years.

Q. Are there or were there any bank accounts during those years in another name of another person or entity for which you had signature authority?

A. No, I have no signature authority for any of those, no, sir.

[10] Q. Okay. For the years 2001 through 2005, did you bring any other documents, books, records, or receipts showing your compensation, wages, salaries, tips, fees, commissions, gains from real property deals, interest, rent, or royalties, dividends, alimony, annuities, income from life insurance policies, endowment contracts, pension payoff or indebtedness, distribution of shares of partnership of gross income, the state income, trust income, this includes compensation paid to you or to someone else, or to an entity on your behalf?

A. The answer to that is – is – is, yes, I do have documents for that. I receive – I receive withdrawals

from a trust account which Mr. Pryor – Mr. – Mr. Kraft has his seven years of documentation of H. Clark, III, revocable trust, which 1040s have been filed. Those are for your records. I do have – I did receive some rent income from a – from the Twin Diamond property which was rather erratic. Those are included in this – in this – these documents. But basically everything that was made on that Twin Diamond, we – Twin Diamond property, which I live in now in Roswell, I used to rent it, and the renters breached their contracts, and I did receive some rent – rental income on that property which is included in the other things.

MR. KRAFT: Can I give this?

[11] THE [sic] FORD: Yes, you can give that.

MR. KRAFT: Mr. Pryor, let me give you one worksheet here which basically summarizes these tax returns as Mr. Ford said, the trust is called H. Clark Ford, III, revocable trust. And – although the questions pertain from '01 to '05, these are returns from when the trust was created in 2000, all the way to the most recent return 2006, and what these returns will show, and you're welcome to look at them. It will show that the income over that seven year span, it wasn't a full year in 2000, is $2.63 million, and it will show that the taxes that were paid on that trust were $511,493 and then there's another entry that has tax exempt income of $69,417, but just kind of as a global information for you, that's – that's what the returns show when they're totaled.

MR. PRYOR: Okay, Mr. Ford has presented to me 1041 tax returns in the name of H. Clark Ford, III, revocable trust, employer identification number 85-6124453, and these returns are for 2000, 2001, 2002, 2003, 2004, 2005, and 2006, and, yes, Mr. Kraft presented a spreadsheet showing the – the taxable income and tax paid for each of these seven years.

Q. (By Mr. Pryor) Okay. Where – where is this H. Clark Ford, III revocable trust held? Where is the [12] corpus of that trust?

A. Corpus is held at – at – it was – it's held in two different stock – stock accounts; is that correct?

MR. FORD: Tell Mr. Pryor who the trustee is.

A. Mr. Kraft is my trustee.

Q. Yes, I see that.

MR. KRAFT: And the corpus is held with two investment companies.

Q. And those are?

A. Merrill Lynch.

Q. Okay.

A. Merrill Lynch and –

MR. KRAFT: FNIC.

A. -- FNIC. Merrill Lynch is in Santa Fe and FNIC is in Roswell.

MR. KRAFT: Could you tell us also – Mr. Pryor who the CPA is?

A. Ron Miller is the CPA.

MR. KRAFT: From?

A. Roswell.

MR. KRAFT: And his firm is Miller & Associates.

Q. Okay.

MR. KRAFT: And if you want, I could ask him some questions at this point.

MR. PRYOR: Okay. Yeah. I'm – I'm not real [13] familiar with 1041s, but do they show a K-1 distributions to the owner of the human beneficiaries of the trust?

MR. KRAFT: Yes, I believe that's on the back. Yes, those are included in the 2000, which I have. About half way back starts the K-1 form.

MR. PRYOR: Okay. Beneficiary share – okay. Interest and ordinary dividends of $40,446 interest, $57,850 of dividends, and income. So this dividend and interest was payable to Mr. Kraft, as trustee, or to Mr. Ford?

MR. KRAFT: Do you mind if I explain?

A. Let me see what he's talking about.

Q. That's the year 2001 showing a distribution to a person.

A. [Ford:] Well, basically – what I need to explain here is that – is that I don't receive dividend checks. Okay. These all go back into my trust, and then when I need – when I need money, I go to the trustee and he has a checking account for me. He makes out the check for me, and I take the money out and I go buy my Whataburger. The dividends do not – I don't directly receive – realize these figures. I don't go to my mailbox and pick up $57,000. That's what I'm trying to say. It goes into the trust.

[14] Q. Okay.

A. And – and – and it sits there until I need it.

Q. Okay.

A. I do not have a checking account in my name.

Q. Okay.

A. It's in – it's in the trust's name. Mr. Kraft has signing authority to it. I don't.

Q. Okay.

A. So when I – when I need to go buy my Whataburger, I ask Mr. Kraft if he can make me out a check and then I go down and I cash the check.

Q. Okay. Then let me ask you this. It might just sum it up. Over the 2001, '02, '03, '04, '05, how much

money per year did Mr. Kraft give you in whatever we're calling this vehicle?

A. I don't – I don't keep records of that. I just take the money and then I spend as I go. I mean, I don't – like I've tried to say, I don't have books and records of what – what I spend. It does not go into an investment of any kind. It's just spent.

Q. Okay. I understand. I think it's deemed income though by the Internal Revenue code to the person receiving this money, whether it's called allowance or whatever. So I need to know.

MR. PRYOR: Can you tell me, Mr. Kraft, what did [15] you give to Mr. Ford, whatever were calling it, though what are the dollars and cents that went from you and/or the trust to Mr. Ford to be spent as he desired?

MR. KRAFT: I'll tell you my general understanding, and I've talked to Mr. Miller –

MR. PRYOR: Okay.

MR. KRAFT: – the CPA, and let me ask – let me answer that but if I can ask, Mr. Ford a question first.

Mr. Ford, to the best of your knowledge, has every penny of taxes that's been owed by the trust been paid?

MR. FORD: To my knowledge, it has.

MR. KRAFT: And is that something that you've entrusted to Mr. Miller to figure out each year?

MR. FORD: Yes, sir.

MR. KRAFT: And he's done the trust from the beginning, and I don't hold myself out as a tax attorney, you know, so . . .

MR. PRYOR: Okay.

MR. KRAFT: I'll tell you my perception. My understanding is that when it's taxed at the trust level, then ends flowed out to Mr. Ford in this instance, it's not necessarily taxable to him.

MR. PRYOR: Okay.

MR. KRAFT: There may be some that is, but I [16] don't know – I mean, there has been money received by him as he indicated, but my understanding is that because whatever this shows as being distributed, you know, to him, was received by him, that doesn't mean he doesn't have to pay taxes on it.

MR. PRYOR: Okay. I'm a revenue officer, not a revenue agent, and you may be 100 percent correct. I'm assuming these are for me to keep?

MR. FORD: Yes, sir.

MR. PRYOR: So with that, I appreciate what you've brought me here. It does answer my questions. And I'm going to recommend that this summons enforcement be closed as of today –

MR. FORD: Okay.

MR. PRYOR: – and let you go home. I'm sorry it took all of this, but it's just questions I had to have as part of my investigation.

MR. FORD: Okay.

MR. PRYOR: And I'll turn these over to the examination division, as those taxes owed. That's all there is to it.

MR. KRAFT: And I'll just say, I'm not – I'm not sure if there is or not, but I don't believe – it's possible that there isn't any, or if there is, it's not necessarily – I mean, I don't fully understand it [17] myself, but the way I've been told, it's possible there's none. Does that make sense?

MR. PRYOR: Yes, it does make sense, and I don't know this answer either. It's over my educational level. This is up to the examination division to determine "all been paid, most of it's been paid, or the K-1's taxable." I just don't know.

But you met the terms of my summons, so that's all I can ask.

MR. KRAFT: We can go off the record then.

(A discussion was held off the record.)

MR. FORD [sic] [Mr. Kraft:]: We're back on record with just a short – with a – we were just off the record for less than a minute there, but Ms. Weisman, U.S. Attorney has prepared a Joint Motion for Release

and also a stipulated order granting release, and she informed both Mr. Pryor and I that we would need to, on the record, ask Mr. Ford about his consent to these documents.

Mr. Ford, before we came in here, I did go over with you the Joint Motion for Release.

We went over that. I read it, and I think I signed it, did I not?

MR. KRAFT: Well, you didn't sign the motion, but the order you did sign.

MR. FORD: Where's the motion? Where do I need [18] to sign on the motion?

MR. KRAFT: You don't need to sign the motion.

MR. FORD: Oh, I don't need to sign the motion.

MR. KRAFT: But you read through the motion that – that she intends to file which would ask that you be released from your incarceration?

THE [sic] FORD: Right.

MR. KRAFT: And then there's an order and the order – let me read it to you. It says it's called "Stipulated Order. Granting Joint Motion for Release." It's says, "This matter having come before the Court upon the parties joint motion for release, the

Court being fully advised of the premises finds that the Motion is well-taken. It is ordered that Mr. Ford shall be released from incarceration." And there's a signature line for the judge, there's a place for Ms. Weisman to sign it, that's W-e-i-s-m-a-n, and there's also a place for you to sign it.

Have you signed this here?

MR. FORD: I've signed it.

MR. KRAFT: Are you giving authority then to Ms. Weisman to go ahead and submit the order with your consent to Judge Herrera?

MR. FORD: Absolutely.

MR. KRAFT: She wanted us to get that on the [19] record so Mr. Pryor could inform her that we made a record on that.

Thank you. We'll go back off the record.

(The interview was concluded at 10:33 a.m.)

---

[20] CERTIFICATE OF
COMPLETION OF INTERVIEW

I, DESTENIE M. MARTINEZ, NM #P-180 DO HEREBY CERTIFY that on February 27, 2008, the interview of H. CLARK FORD, III was taken before me at the request of, and sealed original thereof retained by:

RICHARD L. KRAFT
Attorney for H. CLARK FORD, III
111 West third Street
Roswell, New Mexico 88202

I FURTHER CERTIFY that copies of this Certificate have been mailed or delivered to all Counsel, and parties to the proceedings not represented by Counsel, appearing at the taking of the Interview.

I FURTHER CERTIFY that the recoverable cost of the original and one copy of the Interview, including exhibits, to RICHARD L. KRAFT is: $_____.

I FURTHER CERTIFY that I did report in stenographic shorthand the questions and answers set forth herein, and the foregoing is a true and correct transcript of the proceeding had upon the taking of this Interview to the best of my ability.

[21] I FURTHER CERTIFY that I am neither employed by nor related to nor contracted with (unless excepted by the rules) any of the parties or attorneys in this case, and that I have no interest whatsoever in the final disposition of this case in any court.

Destenie M. Martinez
Court Reporter #P-180
License Expires: 08/22/08

[22] STATE OF NEW MEXICO)
)
COUNTY OF BERNALILLO)

I, DESTENIE M. MARTINEZ, New Mexico Provisional Reporter, working under the direction and direct supervision of Kendra Tellez, New Mexico CCR License Number 205, hereby certify that I reported the attached proceedings; that pages number 1-21 inclusive are a true and correct transcript of my stenographic notes. On the date I reported these proceedings, I was the holder of Provisional License Number P-180.

Dated at Albuquerque, New Mexico, this 27th day of February, 2008.

Destenie M. Martinez
Court Reporter #P-180
License Expires: 08/22/2008

Kendra Tellez
Certified Court Reporter #205
License Expires: 12/31/08

IN THE DISTRICT COURT
OF THE UNITED STATES
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA and INTERNAL REVENUE SERVICE,

Petitioners,

vs.

H. CLARK FORD III,

Respondent.

Misc. No. 07-16

FIRST PETITION TO ENFORCE IRS SUMMONS

(Filed Mar. 12, 2007)

The United States of America and Internal Revenue Service (IRS), by and through the United States Attorney for the District of New Mexico on behalf of the Secretary of the Treasury and the Commissioner of Internal Revenue, file this Petition for an Order to Show Cause why H. CLARK FORD III should not be made to appear and produce certain items in his control as sought previously in two IRS summonses. The IRS issued two summonses in August 2006 for Mr. Ford's records for 2001-2005, and for August 1, 2005, to July 31, 2006, as further explained in both Summonses (Exhibits A1 and A2, Summonses).

The IRS needs the information for two reasons. One is to obtain information to determine Mr. Ford's

tax liability for 2001-2005, because he did not file returns for those years. The other is to obtain information to prepare a financial statement for Mr. Ford to determine his ability to pay his delinquent taxes for 1996-2000. (Exhibit A, declaration of IRS Revenue Officer Mike Pryor, at ¶ 2.) In support of this Petition, the USA and the IRS state as follows:

1. H. CLARK FORD III, a resident of Hagerman, New Mexico, is within the jurisdiction of this Court. *See* Exh. A ¶ 3; Exhs. A1 & A2.

2. Jurisdiction is conferred on this Court by 26 U.S.C. §§ 7402(b) and 7604 of the Internal Revenue Code.

3. On August 15, 2006, IRS Revenue Officer Mike Pryor served upon Mr. Ford both IRS Summonses and a Form 433-A (Collection Information Statement (CIS) for Wage Earners and Self-Employed Individuals), asking Mr. Ford to produce certain information on September 26, 2006. (Exh. A ¶¶ 3-4 Exhs. A1 & A2 Summonses; Exhs. A3 & A4, Service of Summonses; Exh. A5, CIS.)

4. One Summons seeks testimony and the production of information for 2001-2005 which the IRS needs in order to determine Mr. Ford's tax liability for those years to assist the IRS in filing returns for 2001-2005 for him since no returns were filed. (Exh. A ¶ 2; Exh. A1.)

5. The other Summons seeks testimony and the production of information for August 1, 2005, through

July 31, 2006, which the IRS needs in order to determine Mr. Ford's current ability to pay his delinquent taxes for 1996-2000. (Exh. A ¶ 2; Exh. A2.)

6. Mr. Ford did not appear on September 26, 2006, as required in the Summonses. (Exh. A ¶ 5.) Mr. Ford submitted a letter dated September 5, 2006, entitled "Notice of Acceptance for Value and Demand for Delegation of Authority, Oath of Office, and Bond, of Michael J. Pryor Regarding a Summons, Form #2039, Request #09-2006-0001." This document from Mr. Ford did not provide any information responsive to either Summons. Id.

7. On February 7, 2007, the United States Attorney's Office sent Mr. Ford a demand/last chance letter for the summoned information, asking Mr. Ford to meet with Mr. Pryor on March 1, 2007, at the IRS office in Roswell, New Mexico. (Exh. A ¶ 6; Exh. A6.)

8. On March 1, 2007, Mr. Ford did not appear at the IRS office

9. Mr. Ford's tax liability as of August 2006 was assessed at over $91,600 and estimated at $60,000, plus penalties and interest that continue to accrue. (Exh. A ¶ 2.)

10. Mr. Ford has not provided any of the information requested in either IRS Summons. (Exh. A ¶ 8.)

WHEREFORE, the United States of America and the Internal Revenue Service request the Court to order as follows:

A. Directing Respondent H. CLARK FORD III to appear before this Court at such time as may be fixed by the Court to show cause, if any, why an order should not be issued directing and commanding him to appear before an officer of the IRS at such time and place as the Court may order, to provide the Requested Information as stated in both IRS Summonses (Exhibits A1 & A2).

B. That the Order to Show Cause provide that service of the order and a copy of this Application and the attached exhibits will be made on Respondent H. CLARK FORD III via personal service.

C. That If Respondent H. CLARK FORD III fails to appear as ordered above he may be held in contempt for failing to comply with this Court's Order, he may be arrested for civil contempt of Court, and he may be held until such time as he can appear before this Court to show cause why he failed to comply with the direct order of this Court, and the Court may issue another Order to serve as a warrant for the immediate arrest of Respondent H. CLARK FORD III by the United States Marshal for this District, or by any of his deputies.

D. For such other and further relief as may be necessary or appropriate.

Respectfully submitted,
LARRY GOMEZ
Acting United States Attorney
Electronically filed 3/12/07
CYNTHIA L. WEISMAN
Assistant U. S. Attorney
P. O. Box 607
Albuquerque, NM 87103
Tel. (505) 346-7274
Fax (505) 346-7205

**IN THE DISTRICT COURT
OF THE UNITED STATES
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF
AMERICA and INTERNAL
REVENUE SERVICE,

Applicants,

Misc. No. _____

vs.

H. CLARK FORD III,

Respondent.

DECLARATION OF MIKE PRYOR

(Filed Mar. 12, 2007)

I, MIKE PRYOR, declare the following to be true and correct.

1. I am a duly commissioned Revenue Officer of the Internal Revenue Service ("IRS"), employed in the IRS office in Lakewood, Colorado. I am assigned to this New Mexico case regarding H. Clark Ford III.

2. In my capacity as a Revenue Officer, I am conducting an investigation for the purpose of producing for examination, books, papers, records, and other data for calendar years 2001-2005, and also for August 1, 2005, through July 31, 2006, as described in the two IRS Summonses I served August 15, 2006. The purpose of the first Summons is to investigate Mr. Ford's tax liability for 2001-2005 since no returns were filed. The purpose of the second Summons is to

obtain financial information to make a collection determination regarding outstanding personal income taxes for 1996-2000. Mr. Ford's tax liability as of August 2006 was assessed at $91,618 and estimated at $60,000. Interest and penalties continue to accrue.

3. On August 15, 2006, I served the two Summonses on Mr. Ford by leaving attested copies in a sealed envelope, addressed to Mr. Ford, attached to the front door of his residence. A true and correct copy of each Summons is attached hereto as Exhibit A1 and Exhibit A2, which I served along with a Collection Information Statement (Form 433 A), a true and correct copy of which is Exhibit A5. Exhibits A3 and A4 are true and correct copies of the Service of each Summons.

4. Both Summonses stated September 26, 2006, as the date for Mr. Ford to appear at the IRS office in Roswell, New Mexico, with the requested records. (Exhibits A1 and A2.)

5. Mr. Ford did not appear on September 26, 2006. I received a letter from Mr. Ford dated September 5, 2006, entitled "Notice of Acceptance for Value and Demand for Delegation of Authority, Oath of Office, and Bond, of Michael J. Pryor Regarding a Summons, Form #2039, Request #09-2006-0001." This document did not provide any information responsive to either Summons.

6. I participated in a draft and received a final copy of a letter dated February 7, 2007, from the U.S.

Attorney's Office to Mr. Ford, attaching both Summonses and the Collection Information Statement asking Mr. Ford to meet with me to provide testimony and the requested documents on March 1, 2007. A true and correct copy of that letter is Exhibit A6.

7. On March 1, 2007, Mr. Ford did not appear at the IRS office in Roswell, New Mexico. I received a letter from Mr. Ford, sent to me and to the U.S. Attorney's Office, dated February 26, 2007, entitled "Refusal of Summons for Fraud in Affidavit of Probable Cause Form." Id. This mailing did not contain any information responsive to either Summons.

8. As of the date of this statement, I have not received any of the information requested in either IRS Summons issued to Mr. Ford.

9. The testimony, books, records, papers, and other data demanded from Mr. Ford by both Summonses are necessary and relevant to the investigation.

10. I have not made any recommendation nor am I aware of any recommendation to refer the tax matters of Mr. Ford for criminal prosecution to the Department of Justice.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 under the laws of the United States of America that the foregoing is true and correct.

/s/ Mike Pryor
MIKE PRYOR
IRS Revenue Officer,
Lakewood, Colorado

Executed on: March 5, 2007

A1

[SEAL – Summons Form 2039]

Summons

In the matter of H Clark Ford, P O Box 424, Hagerman, NM 88232

Internal Revenue Service (Division): Small Business/ Self-Employed

Industry/Area (name or number): Small Business/ Self Employed – Western Area

Periods Calendar Years Ended: December 31, 2001, December 21, 2002, December 31, 2003, December 31, 2004, and December 31, 2005

The Commissioner of Internal Revenue

To H Clark Ford

At 7728 Maya Road, Hagerman, NM or 901 Twin Diamond Road, Roswell, NM

You are hereby summoned and required to appear before Mike Pryor, an officer of the Internal Revenue Service, to give testimony and to bring with you and to produce for examination the following books, records, papers, and other data relating to the tax liability or the collection of the tax liability or for the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws concerning the person identified above for the periods shown.

All documents and records in your possession or control reflecting the receipt of taxable income by you

for the year(s) Calendar Years Ended: December 31, 2001, December 31, 2002, December 31, 2003, December 31, 2004, and December 31, 2005, including but not limited to: statement of wages for the year(s) Calendar Years Ended: December 31, 2001, December 31, 2002, December 31, 2003, December 31, 2004, and December 31, 2005; statements regarding interest or dividend income for the year(s) Calendar Years Ended: December 31, 2001, December 31, 2002, December 31, 2003, December 31, 2004, and December 31, 2005; employee earnings statements for the year(s) Calendar Years Ended: December 31, 2001, December 31, 2002, December 31, 2003, December 31, 2004, and December 31, 2005; records of deposits to bank accounts during the year(s) Calendar Years Ended: December 31, 2001, December 31, 2002, December 31, 2003, December 31, 2004, and December 31, 2005; and any and all other books, records, documents, and receipts regarding wages, salaries, tips, fees, commissions, and any other compensation for services (including gains from dealings in property, interest, rental, royalty and dividend income, alimony, annuities, income life insurance policies and endowment contracts, pensions, income from the discharge of indebtedness, distributive shares of partnership gross income, and income from an estate or trust), so that Federal Income tax liability for the year(s) Calendar Years Ended: December 31, 2001, December 31, 2002, December 31, 2003, December 31, 2004, and December 31, 2005 (for which year(s) no return have been made) may be determined.

Do not write in this space

Business address and telephone number of IRS officer before whom you are to appear:

12600 West Colfax Ave., Ste C-300, M/S 5223WO, Lakewood, CO 80215 303-231-5270 x229

Place and time for appearance at: 500 N. Richardson, Room 113, Roswell, NM 88201 **on the** 26th **day of** September, 2006 **at** 11:30 **o'clock** Am.

Issued under authority of the Internal Revenue Code this 11th **day of** August, 2006

[LOGO] IRS
Department of the Treasury
Internal Revenue Service
www.irs.gov

Form 2039 (Rev. 12-2001 catalog number 24795)

/s/ Mike Pryor	Revenue Officer
Signature of Issuing Officer	Title
/s/	
Signature Of Approving Officer (If Applicable)	Title

A2

[SEAL – Summons form 2039]

Summons

In the matter of H Clark Ford III, PO Box 424, Hagerman, NM 88232

Internal Revenue Service (Division): Small Business/ Self Employed

Industry/Area (name or number): Small Business/ Self Employed – Western Area

Periods Calendar Years Ended: December 31, 1996, December 21, 1997, December 31, 1998, December 31, 1999, and December 31, 2000

The Commissioner of Internal Revenue

To H Clark Ford III

At 7728 Maya Road, Hagerman, NM or 901 Twin Diamond Road, Roswell, NM

You are hereby summoned and required to appear before Mike Pryor, an officer of the Internal Revenue Service, to give testimony and to bring with you and to produce for examination the following books, records, papers, and other data relating to the tax liability or the collection of the tax liability or for the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws concerning the person identified above for the periods shown.

All documents in your possession or control reflecting the assets and liabilities of the above named taxpayer(s) including, but not limited to, the following: all bank statements, checkbooks, canceled checks, savings account passbooks, and records of certificates of deposit, for the period August 1, 2005 to July 31, 2006, regarding accounts or assets held in the name of the taxpayer(s) or held for the benefit of the taxpayer(s); all records or documents regarding stocks and bonds, deeds or contracts regarding real property, current registration certificates for motor vehicles, and life or health insurance policies currently in force, any of which items are owned, wholly or partially, by the taxpayer(s), or in which the taxpayer(s) have a security interest, or held for the benefit of either or both of the taxpayer(s), so that a current Collection Information Statement may be prepared. A blank copy of such Collection Information Statement is attached hereto to guide you in the production of the necessary documents and records.

Do not write in this space

Business address and telephone number of IRS officer before whom you are to appear:

12600 West Colfax Ave., Ste C-300, M/S 5223WO, Lakewood, CO 80215 303-231-5270 x229

Place and time for appearance at: 500 N Richardson, Room 113, Roswell, NM 88201 **on the** 26th **day of** September, 2006 **at** 11:00 **o'clock** Am.

Issued under authority of the Internal Revenue Code this 11th **day of** August, 2006

[LOGO] IRS
Department of the Treasury
Internal Revenue Service
www.irs.gov

Form 2039 (Rev. 12-2001 catalog number 24795)

/s/ Mike Pryor		Revenue Officer
Signature of Issuing Officer		Title
/s/		
Signature Of Approving Officer (If Applicable)		Title

In the United State [sic] **District Court of**

New Mexico

United States of America
And Internal Revenue Service
Petitioner

v #1: 07-mc-16

H. Clark Ford III
Respondent

Request for Setting

(Filed May 23, 2007)

1. Type of case – Advisory _____ Jury ; **X Non Jury**
2. Assigned Judge – Hon. Judith C Herrera
3. Hearing presently set – none
4. Specific matters to be heard – ***Coram Nobis Rules 60(4) & (3) Relief from Order and Motion to Dismiss with Prejudice***.
   a. Dose [sic] the District Court have Jurisdiction?
   b. Has Mr. Ford filed returns and is Agent estoppled [sic]?
   c. Does Agent have delegated authority?
   d. Is there a liability?
   e. Is there fraud upon the court?

f. Do forms 2039 and 433-A have legal efficacy?

g. Is this a matter of equity?

5. Estimated total time needed 1 hour

6. Requested by H. Clark Ford III

7. Other Attorneys and pro se parties entitled to notice: NA

8. H. Clark Ford III is not available thru the first week of June. He will be available after that time.

Respectfully Submitted

/s/ H Clark Ford III

H. Clark Ford III, special appearance
PO Box 424
Hagerman New Mexico 88232
505-317-4648

In The US District Court

District of New Mexico

En Re H. Clark Ford III
Applicant

v Civ 07-0836 JCH-LFG

Agent Michael J. Pryor
 # 84-10124
Respondent

Response to Motion to Dismiss Upon Rules 12 and 56

(Filed Dec. 6, 2007)

Now Comes H. Clark Ford III, pro se Applicant in the above styled cause to file a **Response to Motion to Dismiss upon Rules 12 and 56**.

I. Introduction

There have been allegations that the Applicant is encumbered with a tax liability. The information provided thus far, has not produced the needed information for which to conclude that such liability even exists. The Respondent has not rendered to the Applicant a Record Assessment. As a matter of law, the motion to dismiss upon Rule 12 and 56 shall not issue.

II. Record Assessment

The Respondent has not Provided the Required Information

On the 31st day of May 2006, the Applicant filed with Agent Michael J. Pryor # 84-10124 a **Demand for Record Assessment**.[1] This hand delivered demand required Michael J. Pryor # 84-10124 to perform a ministerial duty for which he has no discretion. Either he must furnish the listed information or he must inform the Applicant that there is no **Record Assessment**. The IRS agent did not have the choice of ignoring the demand; it was required of him thru the Code of Federal Regulations. H. Clark Ford III issued Michael J. Pryor # 84-10124 a notice of default on the 19th day of July 2006 by receipt of this hand delivered **Notice of Default**,[2] he has been in default ever since.

Michael J. Pryor # 84-10124 continues to usurp his basic ministerial responsibilities by not complying with Ford's Writ of Mandamus. He has been neglecting his duty since July 19 2006. H. Clark Ford III has not made any assessments against himself from 1997 on; yet, the Respondent accuses Ford of having a tax liability. Ford has standing to know where this liability has come. The Applicant is entitled to know if there has been an *original assessment*. The information provided is nothing more than an accounting

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[1] Lead case 1:07 mc 0016 Doc.5 exhibits 12 &13

[2] Ibid.

of assessments on penalties. We still do not know where the *original liability* has arisen. This information can only be provided with the requested **Record Assessment**, which the Respondent has not produced in alignment with 26 CFR 6203.1. The Respondent makes argument about all these different types of forms. The Code of Federal Regulation does not provide for any particular form for which to provide this information rather it defines the kind of information required. Ford's demands on these matters are in line with what section 6203 requires. The Provided information does not set forth the information required by the Code of Federal Regulations.

The Application will need not assert that any particular form be sent to Mr. Ford. To the Applicant, it is unimportant what form he is to receive; the information he is demanding is not in excess for what the Code of Federal Regulations require. The Respondent will argue that we have sent him this form and we have sent him that form. The problem we run into however, the IRS has not sent Ford information that would constitute a **Record Assessment**.

The CFR does not allow for any deviation in these matters. Agent Pryor has a ministerial duty to provide Ford with a **Record Assessment**. The Respondent has not provided this information. The Applicant asked for five pieces of information. All of these demands are with in the scope of 26 CFR 301.6203.1; the Code of Federal Regulations is specifically devised as a guide to government officials on how they are to carry out their obligations under the US Code.

Ford is not requesting any more or any less than what is required of any other IRS Agent under these circumstances. As defined in the CFR, a **Record Assessment** contains a certain amount of necessary elements. The five demands that the Applicant is making are defining characteristics, which are necessary to constitute a **Record Assessment**:

1. **The Name of the Taxpayer for Each Assessment**.

Ford has been supplied with a certified accounting of penalties, which is assigned to a "legal fiction". All of these certified accountings referred to a one H. CLARK FORD III. This indicates that the Applicant is a "representative personality" of some sort of cooperation or possible [sic] a partnership or an amalgamation. Ford proclaims that he is a "natural entity". The Respondent has not made any assertions that Ford is anything else.

2. **The date of the Assessments Asserting that a Certified Assessment Officer Signed These Assessments on Those Particular Dates For Each and Every Record Assessment.**

This demand is in line with The Code of Federal Regulations. A record assessment becomes a record assessment on the date and time that a certified assessment officer makes the record assessment. A one Sally Gale signs all of these "certified accountings"; this

individual is not a "certified assessment officer". Furthermore, these reports are all "certified" on the same day. The **Record Assessment** is made on the date that an assessment officer swears to the assessment under oath. None of these provided accountings is signed dated and sworn to by a certified assessment officer.

Demand "three" asks the IRS agent to provide information as to the character of the liability. Demand "four" asks what the amount of the liability was for each of the applicable tax periods and number "five" requires information as to the one monetary value in regards to each assessed year. These accountings are for penalty assessments. They do not reflect the *original tax liability*. It is very possible that the Internal Revenue Service is assessing penalties on a liability that does not even exist. Agent Pryor has failed to inform the Applicant as to his tax liability or if there is even a tax liability. The Respondent to the Application has not fore filled [sic] any of the requirements set forth in section 6203.

III. Service of Process

On September 10, 2007, Ford affected a personal service upon IRS Agent Michael J. Pryor 84-10134. A one Cameron Hegedus served the IRS agent personally. This was an effective service upon a competent agent of the Internal Revenue Service; the process server was over the age of 18 and lived in the area of Lakewood Colorado. The service of process took place

at 1434 hr. where Agent Pryor conducts his IRS affairs located at 12600 West Colfax Avenue building C unit 300 city of Lakewood county of Jefferson in the particular state of Colorado. The District Court Clerk entered the return on September 14 2007 at docket number 6. Ford made his Application for Mandamus on August 27 2007. The service was proper and it was timely in accord with Rule 12(b)(5) FRCP.

IRS Agent Michael J. Pryor 84-10134 is an employee to the cooperate entity Internal Revenue Service. He has "sufficient contract" with the federal government to ensure that Ford has rendered to the District Court en persona jurisdiction. Venue is properly set in compliance with Rule 12(b)(2) FRCP.

The summons served upon IRS Agent Michael J. Pryor # 84-10134 contained the court seal. Cameron Hegedus served this in a timely manor [sic] in compliance with Rule 12(b)(4) FRCP. By having Agent Pryor served effective process, Ford also served the Cooperate Internal Revenue Service because Agent Pryor is "privy" to his principle. Notice to the agent must in fact be notice to the principle or Ford would not be having this exchange with the Justice Department at this time. The Internal Revenue Service has been given proper notice in compliance with Rule 4(i) FRCP.

IV. Summary Judgment

Ford has sought a writ of mandamus to inform himself as to whether or not he has a tax liability. There

can be no tax liability if there is no **Record Assessment**. Ford remains uniformed as to the amount and the character of the *original liability* owed. He filed returns for the years at bar but he did not assess himself for any of those years for the reasons contained in his returns.[3]

Agent Pryor has not furnished the information requested in this application; he is not incompliance [sic] with 26 CFR 301.6203.1. Agent Pryor has produced certified accountings of penalty assessment; we do not have any information in regards to the *original assessment* from which all these penalties have arisen. Agent Pryor has also failed to inform the Applicant as to the point in time a certified assessment officer might have made a **Record Assessment**. The Applicant has not requested any particular form nor does the CFR specify what form the IRS must use. The code does, however, provide a guide as to what kind of information may be sought. Ford has geared his demands accordingly. Mr. Ford has not received any information that would constitute a **Record Assessment**.

Genuine issues of material fact will remain. The Respondent will assert that Mr. Ford has been rendered the proper information to satisfy the mandamus application. Ford on the other hand will not agree. The Respondent will support this contention by affidavit in stating that these various different

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[3] Lead Case 1:07 MC 0016 Exhibits 1-10: docket 5

forms have supplied the needed information. Ford on the other hand has held that he himself has filed returns for all of the perspective years and in those years; he has not effected a self-assessment but has sworn that he has had no federal tax liability. Ford will make these contentions based on the following observations about the information before him:

1. The Applicant's name is not spelled in all caps. All of these certifications refer to Mr. Ford being some sort of "collective entity". There is no evidence to show that this is the case.

2. H. Clark Ford III does not have a Social Security Number. Thus there is no contractual relation between him and the federal government. The accountings contain a SSN.

3. There were no assessment officers making any assessments under oath for the tax periods at bar.

4. There is no information pertaining to the character or type of tax liability incurred.

5. The original value set forth by a certified assessment officer – not an accounting technician.

It is because Agent Pryor has not furnished the information that Mr. Ford needs in order to know if he in fact has a tax liability and that the Respondent will attest, to the contrary we cannot conclude these matters on a motion for summary judgment. Genuine issues of material fact remain:

Has the Respondent provided a Record Assessment for H. Clark Ford III or has he been informed to the point that he may be aware of the original assessment against him?

Or

Have there been any assessments against H. Clark Ford III the natural living man?

In as much as Ford has not assessed himself during the tax periods before the court, we still do not know where the original tax assessment has come from. Other questions remain:

Is the Applicant a collective entity?

Is Sally Gale a certified Assessment officer?

Did H. Clark Ford III file frivolous returns?

These issues arise thru the conflicting affidavits between the Applicant and the Respondent. These issues remain undetermined at this time. "A motion for summary judgment can not be decided on parties' affidavits where facts are disputed or conflicting inferences may be drawn there from."[4] This application is to encourage a public servant to do what he is duty bound to do. Agent Pryor and the IRS have not

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[4] *Mayflower Industries v Thor Corp.*, 83 A. 2d 247

preformed their ministerial duty in providing Ford with a **Record Assessment** or in the alternative; the Respondent will not inform the Applicant that there has been no **Record Assessments**. As a matter of law, the motion to dismiss upon rules 12 and 56 must fail.

Wherefore:

The Applicant Respectively Moves the Court to:

- ***Deny Respondents Motion to Dismiss upon Rules 12 and 56***
- ***Order a show cause hearing as to why Agent Michael J. Pryor should not be held in contempt for not providing the needed information Record Assessment 26 CFR 301.6203.1***

Respectfully Submitted,

/s/ H. Clark Ford III

H. Clark Ford III
40161051
415 Roma NW
Albuquerque New Mexico 87102

Certificate of Service

I H. Clark Ford III, The Applicant in the above styled cause hereby affirm on this 5 day of December that a clear and accurate copy of **Response to Motion to Dismiss Upon Rules 12 and 56**

was sent to

Counsel for IRS/ Agent Michael J. Pryor # 84-10124
Andrew L Sobotka
State Bar Number 18819900
Department of Justice
717 n. Harwood Suite 400
400 Dallas Texas 75201

The last known address

On the 5 day of December 2007 by the US Postal Service.

/s/ H. Clark Ford III 12/4/07
H. Clark Ford III Date

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO
ALBUQUERQUE DIVISION

In Re H. Clark Ford III, Applicant, v. Agent Michael J. Pryor, Revenue Officer, Internal Revenue Service, Respondent.	)	Civil No. 07-0836-JCH-LFG

Defendant's Amended[1] Motion to Dismiss and Alternative Motion for Summary Judgment

(Filed Nov. 26, 2007)

Pursuant to Rules 12 and 56 of the Federal Rules of Civil Procedure, Defendant, Michael Pryor, Revenue Officer of the Internal Revenue Service, and the United States of America, on behalf of the Internal Revenue Service (collectively "the Defendant") move this Court for an Order dismissing the Application For Writ of Mandamus filed by H. Clark Ford, III (Ford); or in the alternative, for summary judgment

[1] Defendant's initial Motion to Dismiss and Alternative Motion for Summary Judgment was erroneously styled for the United States Bankruptcy Court. However. it was filed in the District Court. The motion has been amended with the correct style and is being refiled. There are no other changes to the initial motion.

denying the Application. Defendant would respectfully show that: (A) Ford has failed to properly serve process; (B) Ford has already been provided with all of the information his is entitled to receive under 26 C.F.R. § 301.6203-1; and (C) mandamus is not available to compel a government official to perform more than is required by the law or to determine how that official is to perform a discretionary function.

I.

Factual and Procedural Background

1. The Court is already familiar with Ford's refusal to pay federal income taxes and provide information to the IRS concerning his assets, income and expenses despite having been summoned by the IRS and ordered by the Court to do so. See Miscellaneous Case No. 1:07-mc-16 JCH (D. N.M.)

2. In this case, Ford seeks a "*writ of mandamus holding that:*

> *1. "Agent Pryor Provide Record of Assessment in Line with the Requirements dictated by 26 C.F.R. 301.6203-1 for tax periods 1996-2006.*
>
> *Or*
>
> *2. Provide Notice that no such assessment exist for the years 1996-2006."*

Application for Writ of Mandamus, Prayer at p. 5 (italics in original).

3. The Application for mandamus names Michael J. Pryor as a respondent, in his official capacity as an employee of the Internal Revenue Service. Although Pryor is a duly commissioned Revenue Officer of the Internal Revenue Service, Ford seeks an order compelling Revenue Officer Pryor to provide Ford with documents or information that are the property of the Internal Revenue Service, and therefore the relief sought would also act against the United States of America.

4. To date, Ford has served only Revenue Officer Pryor with a summons and the Application, but has not served the Internal Revenue Service or the United States with a copy of the summons and Application in the manner required by Rule 4(i) of the Federal Rules of Civil Procedure.

5. Revenue Officer Pryor has already sent Ford MFTRA-X Transcripts for his 1996 through 2000 tax periods containing the name of the taxpayer, the date of assessment, the character of the liability assessed, the taxable period, and the amounts assessed. *See* Declaration of Revenue Officer Pryor, attached as Exhibit 1, at ¶3 and Exhibit 1-A, at last 11 pages. Additionally, Ford has been sent Certificates of Assessments and Payments (Forms 4340) for the same periods showing the same information. See Exhibit 2.

6. There are not yet any assessments against Ford for tax periods 2001 through 2006 because Ford has failed to file returns for those periods and failed to provide the IRS with information concerning his

income and expenses despite having been summoned by the IRS or ordered by the Court to do so. Thus, there are not yet any records of assessment to be provided to Ford for 2001 through 2006. Declaration of Revenue Officer Pryor, ¶4.

II.

Law and Argument

A. Dismissal for Failure to Make Service of Process

Ford has sued an officer of the United States in his official capacity, and served only that employee with process. To date Ford has not served a summons and copy of his Application for Writ of Mandamus on the Internal Revenue Service and the United States in the manner prescribed in Rule 4(i) of the Federal Rules of Civil Procedure. Therefore, Ford's Application should be dismissed for failure to make proper service of process under Rules 12(b)(2), (4) and (5) of the Federal Rules of Civil Procedure. When service of process is challenged, as it has been above, the party on whose behalf service is made bears the burden of establishing its validity. *System Signs Supplies v. United States Dept. of Justice*, 903 F.2d 1011, 1013 (5th Cir. 1990); *Familia de Boom v. Arosa Mercantile, S.A.*, 629 F.2d 1134, 1139 (5th Cir. 1980). Ford's pro se status does not excuse him from failing to obtain a summons or to effect service of process. *System Signs Supplies v. United States Dept. of Justice*, 903 F.2d 1011, 1013 (5th Cir. 1990).

B. Ford has already been provided the information he is entitled

Ford has already been provided the information he is entitled under Treas. Reg. § 301.6203-1. That regulation provides:

> The district director and the director of the regional service center shall appoint one or more assessment officers. The district director shall also appoint assessment officers in a Service Center servicing his district. The assessment shall be made by an assessment officer signing the summary record of assessment. The summary record, through supporting records, shall provide identification of the taxpayer, the character of the liability assessed, the taxable period, if applicable, and the amount of the assessment. The amount of the assessment shall, in the case of tax shown on a return by the taxpayer, be the amount so shown, and in all other cases the amount of the assessment shall be the amount shown on the supporting list or record. The date of the assessment is the date the summary record is signed by an assessment officer. ***If the taxpayer requests a copy of the record of assessment, he shall be furnished a copy of the pertinent parts of the assessment which set forth the name of the taxpayer, the date of assessment, the character of the liability assessed, the taxable period, if applicable, and the amounts assessed.***

26 C.F.R. § 301.6203-1 (emphasis added).

As shown in Revenue Officer Pryor's Declaration (Exhibit 1) and the last 11 pages of the March 6, 2006, letter from Ford to Revenue Officer Pryor (Exhibit 1-A), Ford received MFTRA-X transcripts for the income tax and civil penalty assessments against him for tax periods 1996 through 2000. These MFTRA-X transcripts provided Ford with the name of the taxpayer, the date of assessment, the character of the liability assessed, the taxable period, and the amounts assessed. In other words, the MFTRA-X transcripts gave all the information required by Treas. Reg. § 301.62034. Additionally, Certified Records of Assessments and Payments (Forms 4340) for Ford's 1996 through 2000 unpaid accounts unpaid[2] [sic] were mailed to Ford by the undersigned counsel on November 9, 2007, in an unredacted form. Redacted copies of those Certificates of Assessments and Payments (Forms 4340) are attached hereto as Exhibit 2.[3] These Forms 4340 are admissible without the need for any greater evidentiary foundation[4] and

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[2] A Form 4340 for Ford's 1996 individual income tax account (Form 1040) was not generated or included in this mailing because the existing assessments for that account have been paid. However, a MFTRA-X for that account was previously included in the documents provided by Revenue Officer Pryor.

[3] Ford's Social Security number and any address have been partially redacted in the attached exhibits to protect Ford's privacy.

[4] Consistently, courts have held that Form 4340 is self-authenticating and admissible over hearsay objections. *See, e.g., United States v. Neff*, 615 F.2d 1235, 1241 (9th Cir.), *cert. denied*, 447 U.S. 925, 100 S. Ct. 3018, 65 L. Ed.2d 1117 (1980);

(Continued on following page)

provide Ford with the same information listed in Treas. Reg. § 301.6203-1 in a different format.[5]

The regulation does not prescribe the form or manner in which the information about the assessment is to be provided to the taxpayer. Thus, while the act of making an assessment may be ministerial, the decision as to the form and manner of providing the required information about the assessment to the taxpayer is left up to the discretion of the Internal Revenue Service.

Several courts have held that the IRS can satisfy its obligation to prove a taxpayer with the information described in Treas. Reg. § 301.6203 by providing Certificates of Assessments and Payments (Forms

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Schmidt v. IRS, 717 F. Supp. 763, 764 (D. Kan. 1989) ("Form 4340, Certificate of Assessments and Payments. . . . [is] proper and admissible evidence pursuant to Rules 902(1) and 803(8) of the Federal Rules of Evidence"), *vacated on other grounds*, 913 F.2d 837 (10th Cir. 1990). *See also, McCarthy v United States*, 929 F.2d 1085 (5th Cir. 1991); *United States v. McCallum*, 970 F.2d 66 (5th Cir. 1992); *Hughes v. United States*, 953 F 2d 531, 535, 539-540 (9th Cir. 1992); *Rossi v. United States*, 755 F. Supp. 314, 316-17 (Dist. Ore. 1990); *Garm v United States*, 114 B.R. 414 (Banks. M.D Penn., 1990).

[5] It should be noted that MFTRA-X Transcripts and the Certificate of Assessments and Payments do not always reflect the accrual of statutory interest or the accrual of penalties on taxes, penalties or interest previously assessed. Treas. Reg. § 301.6203-1 does not require the IRS to provide information about statutorily accrued interest and penalties However, the IRS includes information on the amount of these accruals in its demands for payments, notices of intent to levy and liens and responses to taxpayer requests for payoff information.

4340) to the taxpayer. *Roberts v. Commissioner*, 329 F.3d 1224, 1228 (11th Cir. 2003); *Koff v. United States*, 3 F.3d 1297, 1298 (9th Cir. 1993), *cert. denied* 114 S.Ct. 1537, 511 U.S. 1030, 128 L.Ed.2d 190; *Gentry v. United States*, 962 F.2d 555, 557-558 (6th Cir. 1992) Moreover, the Tenth Circuit and other courts have held that the IRS may satisfy its obligation under the regulation if provides other types of documents that contain the same information required by Treas. Reg. §301.6203-1. In *James v. United States*, 970 F.2d 750, 755 (10th Cir. 1992), the Tenth Circuit held that the IRS's regular notices and demand for payment to the taxpayer contained sufficient information to satisfy the requirements of Treas. Reg. 301.6203-1. *See also, United States v. Chila*, 871 F. 2d 1015, 1017 (11th Cir. 1989) ("any part of the records of the government that supplies the pertinent information"). Similarly, the Tax Court has held that sending the taxpayer a MFTRA-X Transcript provided all of the information required by Treas. Reg. § 301.6203-1. *See Perez v. Commissioner*, T. C. Memo 2002-274, 2002 WL 31437309 at *3 (U.S. Tax Ct. 2002); *Standifird v. Commissioner*, T. C. Memo 2002-245, 2002 WL 31151194 at *3, n. 4 (U.S. Tax Ct. 2003), *affd.* 72 Fed. Appx. 729, 2003 WL 21995390 (9th Cir. 2003). Here, Ford has been given both MFTRA-X Transcripts and Certificates of Assessments and Payments (Forms 4340) for his 1996 through 2000 tax periods.

Finally, because Ford has not filed tax returns for his 2001 through 2006 tax years and has not provided

the IRS with information about his assets, income and expenses for those tax years despite having been summoned by the IRS and ordered by the Court to do so, the IRS has not yet made any assessments against Ford for those periods. In sum, Ford already has been given all that he is entitled to receive. As such, he is not entitled to a writ of mandamus.

C. Mandamus is not available to compel a government official to perform more than is required by the law or to determine how that official is to perform a discretionary function

An examination of the March 6, 2006, letter Ford sent to Revenue Officer Pryor (Exhibit i-A), reveals that Ford wants the Court to order Pryor to provide ***more*** than is required by Treas. Reg. § 301.6203. Ford apparently wants copies of the documents which where [sic] signed by the assessment officer on the day the assessments were made against him. This document is known as the Summary Record of Assessment and historically was a Form 23C. More recently, the IRS has used a RACS Report 006 as the document which the assessment officer signs. *See Roberts v. Commissioner*, 329 F.3d 1224, 1228 (11th Cir. 2003) The Summary Record of Assessments is just what it suggests – a summary and does not identify specific taxpayers by name, Social Security numbers or individual assessments. *Gentry v. United States*, 962 F.2d 555, 557-558 (6th Cir. 1992). Instead, it is a

summary of all the combined assessments made by the IRS at a particular location for a particular day.[6] It is for this reason that the courts have held that Treas. Reg. § 301.6203 does not require the IRS to provide taxpayers with the Summary Record of Assessments or other proof of an assessment officer's signature. *Koff v. United States*, 3 F.3d 1297, 1298 (9th Cir. 1993), *cert. denied* 114 S.Ct. 1537, 511 U.S. 1030, 128 L.Ed.2d 190.

Mandamus is not favored except in extraordinary situations. *Allied Chemical Corp. v. Daiflon Inc.*, 449 U.S. 33, 34 (1980). Mandamus may be invoked only where three elements coexist:

1) a demonstrated "clear and indisputable right" to the relief sought,[7]

---

[6] The signed Summary Record of Assessment (Form 23C or RACS 006) is analogous to a balance sheet which summarizes the entire financial activity of a business for a given time period. While that balance sheet might contain combined figures for one or more groups of accounts receivable, the combined amounts of those accounts receivable would not specify the name of, or amount owed by, each specific person in the group. Instead, it is only by looking at the supporting books and records of the company, such as journal entries and ledger accounts, that the names and amounts owed by a specific person can be determined. By contrast the MFTRA-X Transcripts and Certificates of Assessments and Payments (Forms 4340) are more analogous to individual ledger accounts.

[7] *Martin v. Commissioner of Internal Revenue Service*, 753 F.2d 1358, 1360 (6th Cir. 1985), *citing*, *Allied Chemical Corp. v. Daiflon, Inc.*, 449 U.S. 33, 35 (1980.

2) a clearly defined, mandatory duty to perform the particular act requested,[8] and

3) no other adequate remedy is available.[9]

Thus, a court may not order the performance where there is no duty or the performance of a purely discretionary duty, *Gilliland v. Brooks*, 651 F. Supp. 73 (M.D. Tenn. 1986); nor may it direct the manner in which the discretionary act is to be performed or influence the exercise of discretion in making the decision. *McQueary v. Laird*, 449 F.2d 608 (10th Cir. 1971).

In sum, Ford has received everything he is entitled under Treas. Reg. § 301.6203-1; neither Revenue Officer Pryor or the IRS have any duty to provide Ford with a copy of the signed Summary Record of Assessment for each day that assessments happened to have been made against him; and the Court is without authority to override the IRS's discretion as to the form and manner of providing Ford with the information that was required by Treas. Reg. § 301.6203. Accordingly, Ford is not entitled to the writ of mandamus he seeks.

---

[8] *Save The Dunes Council v. Alexander*, 584 F.2d 158, 162 (7th Cir. 1978).

[9] *Georges v. Commissioner*, 88-2 USTC 119527 (1st Cir. 1988); *Gillis v. Internal Revenue Service*, 578 F. Supp. 69, 71 (D. N.H. 1983). *See also, United States ex. rel. Girard Trust Co. v. Helvering*, 301 U.S. 540, 543-44 (1937); *Jones v. Alexander*, 609 F.2d 778, 781 (5th Cir. 1980).

Prayer

For the reasons discussed above, Defendant respectfully requests that the Court dismiss Ford's Application for Writ of Mandamus with prejudice, or in the alternative, that the Court grant summary judgment denying Ford's Application for Writ of Mandamus.

LARRY GOMEZ
United States Attorney
Electronically filed,

/s/ Andrew Sobotka
Andrew L. Sobotka
Attorney, Tax Division
State Bar No. 18819900
Department of Justice
717 N. Harwood, Suite 400
Dallas, Texas 75201
(214) 880-9736
(214) 880-9741 (Fax)
Attorney for
Revenue Officer Pryor and
the United States

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that on November 26, 2007, I filed the foregoing amended pleading electronically through the CM/ECF system, and that I mailed a true and correct copy of the foregoing pleading to the following pro se party: H. Clark Ford,

III, #40161051, Regional Correction Center, 415 Roma, NW, Albuquerque, NM 87102.

/s/ Andrew Sobotka
Andrew L. Sobotka

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO
ALBUQUERQUE DIVISION

In Re H. Clark Ford III, Applicant, v. Agent Michael J. Pryor, Revenue Officer, Internal Revenue Service, Respondent.	)	Civil No. 07-0836-JCH-LFG

Declaration of Michael J. Pryor
Pursuant to 28 U.S.C. § 1746

(Filed Nov. 26, 2007)

Michael J. Pryor declares:

1. I am a duly commissioned Revenue Officer of the Internal Revenue Service (IRS), employed in the IRS office in Lakewood, Colorado.

2. In my capacity as a Revenue Officer, I have been assigned to collect delinquent federal income tax accounts and frivolous return penalty accounts of H. Clark Ford, III (Mr. Ford) for 1996 through 2000, and to secure information to be used to prepare returns or assessments for his 2001 through 2005 tax years.

3. On February 27, 2006, I received a request from Mr. Ford for a copy of the record of assessments against him for tax years 1996 through 2006. On the same day I requested MFTRA-X transcripts on all

periods for which Mr. Ford had any unpaid assessments. On February 28, 2006, I mailed Mr. Ford the original MFTRA-X transcripts of account for tax years 1996 through 2000. These MFTRA-X transcripts of account provided Mr. Ford the name of the taxpayer, the date of assessment, the character of the liability assessed, the taxable period, and the amounts assessed. I know that Mr. Ford received these MFTRA-X transcripts because he included them as the last 11 pages of an attachment to a letter he sent to me dated March 6, 2006. A copy of Mr. Ford's March 6, 2006, letter to me is attached as Exhibit 1-A.

4. Mr. Ford has not filed federal income tax returns for tax years 2001 through 2006 and has refused to provide information concerning his income and expenses for tax years 2001 through 2005 despite being summoned by the IRS and ordered by the Court to do so. Accordingly, the IRS has not yet assessed any tax liabilities for his 2001 through 2006 tax years, and there is not yet any record of assessment to be provided to Mr. Ford for those tax years.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 8th day of November, 2007.

/s/ Michael J. Pryor
Michael J. Pryor
Revenue Officer

Mike Pryor
12600 W. Colfax Ave.
Suite C-300
Lakewood Colorado 80215
March 6, 2006

Re: Information about assessment officers
And request for due process hearing.

(Filed Nov. 26, 2007)

Dear Mr. Pryor: Cert.# 7005 1820 0002 7113 3343

Thank you for your immediate response to my letter dated Feb. 21st, 2006. Since I sent this registered letter (# 7005-0390-0004-0871-9430) I have received two correspondences from your office. I am sorry to reflect that I am becoming increasingly confused as to the actual dollar amount due. When we first spoke on the telephone you indicated that my notice of debt was $80,000. The three correspondence from your office evince different dollar amounts:

Feb. 7th 2006	Exhibit A	$26,718.64
Feb. 24th 2006	Exhibit B	$217.14
Feb. 27th 2006	Exhibit C	$21,889.29

These conflicting totals must be as confusing to you as they are to me. We are talking about 9 different tax periods here – 1997 thru 2006. May you please inform me as to who the respective assessors were for each of those tax periods. I need to know each assessor's name address or phone number so I can find out how much I actually owe. The Secretary of Treasury having certified all 9 of these assessors will give

authority to the true value of debt. Of course if one or more of the federally certified tax assessors have died – I will need to know who took over the account for that particular year. Inasmuch as you are the agent, you may make me aware as to whom the principle [sic] is in all of the above scenarios and I can for once be relieved to know the true value of these things and will be happy to come current.

I see at exhibit C under code 582 on Feb 10th 2006 there is a federal lien. If you have placed a federal lien on something I might own, I ask that you take it off? We are being premature; it is my impression that I have 30 days to respond. The notice of intent went out on the 7th day of February. If I am allowed 30 days to respond – there should not be any action taken against me until March 13th allowing 3 days for mailing while, the 12th falls on a Sunday.

Due to the fact that I am willing to pay what I owe but am confused as to the amount and that it may appear that a federal lien might be illegally attached to something I might own, I am attaching a form 12153 request for due process hearing. Thank you in advance for your attention to these matters.

Best Regards,

/s/ H. Clark Ford III

H. Clark Ford III

[redacted]

Hagerman New Mexico [redacted]

RECEIVED
SB\SE – Compliance Field
MAR 8 2006
Lakewood, Colorado 80215

[SEAL]
U.S. Department of Justice MANCKAMUS
Tax Division 1:07 CV 053 6 JCH

RTM:LPH:ALSobotka:
DJ: 5-49-2825
CMN: 2008100162

717 N. Harwood
Suite 400
Dallas, Texas 75201

Main Line: (214) 880-9721
Attorney's Direct Line:
(214) 880-9736
Fax: (214) 880-9741/9774

November 9, 2007

H. Clark Ford, III,
#40161051,
Regional Correction Center
415 Roma, NW
Albuquerque, NM 87102

Re: H. Clark Ford, III, v. Michael J. Pryor,
Civil Action No.: 1:07-cv-836 (D. N.M.)

Dear Mr. Ford:

Please find enclosed unredacted copies of Certificates of Assessments and Payments (Forms 4340) for the following periods consisting of 40 pages.

1997 Form 1040
1998 Form 1040
1999 Fonn 1040
2000 Form 1040

1996 Civ. Penalty
1997 Civ. Penalty
1998 Civ. Penalty
1999 Civ. Penalty

Sincerely yours,

/s/ Andrew L. Sobotka
Andrew L. Sobotka
Trial Attorney
Civil Trial Section
Southwestern Region

Enclosures

[SEAL]

United States of America

Department of the Treasury
Internal Revenue Service

Date: Sept. 24, 2007

CERTIFICATE OF OFFICIAL RECORD

I certify that the annexed: is a true Form 4340, Certificate of Assessments, Payments and Other Specified Matters for H. Clark Ford, III, SSN: 527-68-6736, for Civil Penalty, for the tax period ending December 31, 1996, consisting of four pages under the custody of this office.

IN WITNESS WHEREOF, I have hereunto set my hand, and caused the seal of this office to be affixed, on the day and year first above written.

By direction of the Secretary of the Treasury:

/s/ Sally Gale
Sally Gale
Supervisor Accounting Technician
Ogden W&I Submission Processing
SW Delegation Order 198

CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

H CLARK FORD III EIN/SSN: [Social Security Number Omitted]

TYPE OF TAX: CIVIL PENALTY
FORM: CVPN TAX PERIOD: DEC 1996

DATE	EXPLANATION OF TRANSACTION	ASSESSMENT, OTHER DEBITS (REVERSAL)	PAYMENT, CREDIT (REVERSAL)	ASSESSMENT DATE (23C, RAC 006)
	MISCELLANEOUS PENALTY IRC 6702 PENALTY FOR FILING FRIVOLOUS INCOME TAX RETURN 29254-673-52014-9 19994008	500.00		10-18-1999
	ADDITIONAL TAX ASSESSED 29254-673-52014-9 19994008	0.00		10-18-1999
02-21-2000	MODULE BLOCKED OR RELEASED FROM FEDERAL PAYMENT LEVY PROGRAM			
12-30-2002	REVERSAL OF MODULE BLOCKED FROM FEDERAL PAYMENT LEVY PROGRAM			
12-30-2002	MODULE IN FEDERAL PAYMENT LEVY PROGRAM			
07-28-2003	MODULE REVERSED OUT OF FEDERAL PAYMENT LEVY PROGRAM			
11-21-2005	MODULE IN FEDERAL PAYMENT LEVY PROGRAM			
02-10-2006	FEDERAL TAX LIEN			
03-06-2006	FEES AND COLLECTION COSTS	18.00		

CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

H CLARK FORD III EIN/SSN: [Social Security Number Omitted]

TYPE OF TAX: CIVIL PENALTY
FORM: CVPN TAX PERIOD: DEC 1996

DATE	EXPLANATION OF TRANSACTION	ASSESSMENT, OTHER DEBITS (REVERSAL)	PAYMENT, CREDIT (REVERSAL)	ASSESSMENT DATE (23C, RAC 006)
02-07-2006	INTENT TO LEVY COLLECTION DUE PROCESS NOTICE LEVY NOTICE ISSUED			
02-14-2006	INTENT TO LEVY COLLECTION DUE PROCESS NOTICE RETURN RECEIPT SIGNED			
03-06-2006	LEGAL SUIT PENDING			
03-08-2006	COLLECTIONS WORKING CASE			
04-03-2006	MODULE REVERSED OUT OF FEDERAL PAYMENT LEVY PROGRAM			
03-08-2006	LEGAL SUIT PENDING			
12-14-2006	COLL DUE PROC HRNG RSLVD BY APPEALS-DETRMINATN LTR ISSUED, TXPYER WAIVD JUDCL REVW OR WTHDRW HRNG RQST			
11-10-2006	LEGAL SUIT NO LONGER PENDING			
02-19-2007	MODULE IN FEDERAL PAYMENT LEVY PROGRAM			
10-18-1999	Statutory Notice of Balance Due			
12-13-1999	Statutory Notice of Intent to Levy			
10-03-2005	Statutory Notice of Intent to Levy			

CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

H CLARK FORD III EIN/SSN: [Social Security Number Omitted]

TYPE OF TAX: CIVIL PENALTY
FORM: CVPN TAX PERIOD: DEC 1996

BALANCE 518.00

I CERTIFY THAT THE FOREGOING TRANSCRIPT OF THE TAXPAYER NAMED ABOVE IN RESPECT TO THE TAXES SPECIFIED IS A TRUE AND COMPLETE TRANSCRIPT FOR THE PERIOD STATED, AND ALL ASSESSMENTS, ABATEMENTS, CREDITS, REFUNDS, AND ADVANCE OR UNIDENTIFIED PAYMENTS, AND THE ASSESSED BALANCE RELATING THERETO, AS DISCLOSED BY THE RECORDS OF THIS OFFICE AS OF THE ACCOUNT STATUS DATE ARE SHOWN THEREIN. I FURTHER CERTIFY THAT THE OTHER SPECIFIED MATTERS SET FORTH IN THIS TRANSCRIPT APPEAR IN THE OFFICIAL RECORDS OF THE INTERNAL REVENUE SERVICE.

SIGNATURE OF CERTIFYING OFFICER: Sally Gale

PRINT NAME: Sally Gale

TITLE: Supervisor Accounting Technician, Ogden W&I Submission Processing

DELEGATION ORDER: SW Delegation Order 198

LOCATION: INTERNAL REVENUE SERVICE
ACCOUNT STATUS DATE 09/24/2007

[SEAL]

United States of America

Department of the Treasury
Internal Revenue Service

Date: Sept. 24, 2007

CERTIFICATE OF OFFICIAL RECORD

I certify that the annexed: is a true Form 4340, Certificate of Assessments, Payments and Other Specified Matters for H. Clark Ford, III, SSN: [Social Security Number Omitted], and Spouses SSN: [Social Security Number Omitted], for U.S. Individual Income Tax Return (Form 1040), for the tax period ending December 31, 2000, consisting of four pages under the custody of this office.

IN WITNESS WHEREOF, I have hereunto set my hand, and caused the seal of this office to be affixed, on the day and year first above written.

By direction of the Secretary of the Treasury:

/s/ Sally Gale
Sally Gale
Supervisor Accounting Technician
Ogden W&I Submission Processing
SW Delegation Order 198

CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

H CLARK FORD III

EIN/SSN: [Social Security Number Omitted]
[Social Security Number Omitted]

TYPE OF TAX: INDIVIDUAL INCOME TAX RETURN
FORM: 1040 TAX PERIOD: DEC 2000

DATE	EXPLANATION OF TRANSACTION		ASSESSMENT, OTHER DEBITS (REVERSAL)	PAYMENT, CREDIT (REVERSAL)	ASSESSMENT DATE (23C, RAC 006)
	ADJUSTED GROSS INCOME	58,757.00			
	TAXABLE INCOME	52,282.00			
11-05-2001	SUBSTITUTE FOR RETURN 29210-307-25704-1		0.00		12-10-2001
07-08-2000	RECEIVED POA/TIA				
09-02-2003	REMOVED POA/TIA				
	ESTIMATED TAX PENALTY 20051408		626.80		04-18-2005
	LATE FILING PENALTY 20051408		2,641.50		04-18-2005
04-15-2001	WITHHOLDING CREDIT			47.00	
	ADDITIONAL TAX ASSESSED BY EXAMINATION AUDIT DEFICIENCY PER DEFAULT OF 90 DAY LETTER 49247-484-00100-5 20051408		11,787.00		04-18-2005

CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

H CLARK FORD III

EIN/SSN: [Social Security Number Omitted]
[Social Security Number Omitted]

TYPE OF TAX: INDIVIDUAL INCOME TAX RETURN
FORM: 1040 TAX PERIOD: DEC 2000

DATE	EXPLANATION OF TRANSACTION	ASSESSMENT, OTHER DEBITS (REVERSAL)	PAYMENT, CREDIT (REVERSAL)	ASSESSMENT DATE (23C, RAC 006)
04-18-2005	RENUMBERED RETURN 49247-484-00100-5			
	INTEREST ASSESSED 20051408	2,582.08		04-18-2005
	FAILURE TO PAY TAX PENALTY 20051408	2,876.30		04-18-2005
03-03-2006	FEDERAL TAX LIEN			
03-27-2006	FEES AND COLLECTION COSTS	18.00		
02-27-2006	INTENT TO LEVY COLLECTION DUE PROCESS NOTICE LEVY NOTICE ISSUED			
03-07-2006	INTENT TO LEVY COLLECTION DUE PROCESS NOTICE RETURN RECEIPT SIGNED			
03-20-2006	MODULE IN FEDERAL PAYMENT LEVY PROGRAM			
03-08-2006	COLLECTIONS WORKING CASE			
04-03-2006	MODULE REVERSED OUT OF FEDERAL PAYMENT LEVY PROGRAM			

CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

H CLARK FORD III

EIN/SSN: [Social Security Number Omitted]
[Social Security Number Omitted]

TYPE OF TAX: INDIVIDUAL INCOME TAX RETURN
FORM: 1040 TAX PERIOD: DEC 2000

DATE	EXPLANATION OF TRANSACTION	ASSESSMENT, OTHER DEBITS (REVERSAL)	PAYMENT, CREDIT (REVERSAL)	ASSESSMENT DATE (23C, RAC 006)
03-08-2006	LEGAL SUIT PENDING			
07-28-2006	LEGAL SUIT NO LONGER PENDING			
12-14-2006	COLL DUE PROC HRNG RSLVD BY APPEALS – DETRMINATN LTR ISSUED, TXPYR WAIVD JUDCL REVW OR WTHDRW HRNG RQST			
02-19-2007	MODULE IN FEDERAL PAYMENT LEVY PROGRAM			
04-18-2005	Statutory Notice of Balance Due			
01-16-2006	Statutory Notice of Intent to Levy			

CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

H CLARK FORD III EIN/SSN: [Social Security Numbers Omitted]

TYPE OF TAX: U.S. INDIVIDUAL INCOME TAX RETURN

FORM: 1040 TAX PERIOD: DEC 2000

BALANCE 20,484.68

I CERTIFY THAT THE FOREGOING TRANSCRIPT OF THE TAXPAYER NAMED ABOVE IN RESPECT TO THE TAXES SPECIFIED IS A TRUE AND COMPLETE TRANSCRIPT FOR THE PERIOD STATED, AND ALL ASSESSMENTS, ABATEMENTS, CREDITS, REFUNDS, AND ADVANCE OR UNIDENTIFIED PAYMENTS, AND THE ASSESSED BALANCE RELATING THERETO, AS DISCLOSED BY THE RECORDS OF THIS OFFICE AS OF THE ACCOUNT STATUS DATE ARE SHOWN THEREIN. I FURTHER CERTIFY THAT THE OTHER SPECIFIED MATTERS SET FORTH IN THIS TRANSCRIPT APPEAR IN THE OFFICIAL RECORDS OF THE INTERNAL REVENUE SERVICE.

SIGNATURE OF CERTIFYING OFFICER: Sally Gale

PRINT NAME: Sally Gale

TITLE: Supervisor Accounting Technician, Ogden W&I Submission Processing

DELEGATION ORDER: SW Delegation Order 198

LOCATION: INTERNAL REVENUE SERVICE

ACCOUNT STATUS DATE 09/24/2007

[SEAL]

United States of America

Department of the Treasury
Internal Revenue Service

Date: Sept. 24, 2007

CERTIFICATE OF OFFICIAL RECORD

I certify that the annexed: is a true Form 4340, Certificate of Assessments, Payments and Other Specified Matters for H. Clark Ford, III, SSN: [Social Security Number Omitted], for Civil Penalty, for the tax period ending December 31, 1997, consisting of three pages under the custody of this office.

IN WITNESS WHEREOF, I have hereunto set my hand, and caused the seal of this office to be affixed, on the day and year first above written.

By direction of the Secretary of the Treasury:

/s/ Sally Gale
Sally Gale
Supervisor Accounting Technician
Ogden W&I Submission Processing
SW Delegation Order 198

CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

H CLARK FORD III EIN/SSN: [Social Security Number Omitted]

TYPE OF TAX: CIVIL PENALTY
FORM: CVPN TAX PERIOD: DEC 1997

DATE	EXPLANATION OF TRANSACTION	ASSESSMENT, OTHER DEBITS (REVERSAL)	PAYMENT, CREDIT (REVERSAL)	ASSESSMENT DATE (23C, RAC 006)
	MISCELLANEOUS PENALTY IRC 6702 PENALTY FOR FILING FRIVOLOUS INCOME TAX RETURN 29254-673-52015-9 19994008		500.00	10-18-1999
	ADDITIONAL TAX ASSESSED 29254-673-52015-9 19994008		0.00	10-18-1999
02-21-2000	MODULE BLOCKED OR RELEASED FROM FEDERAL PAYMENT LEVY PROGRAM			
12-30-2002	REVERSAL OF MODULE BLOCKED FROM FEDERAL PAYMENT LEVY PROGRAM			
12-30-2002	MODULE IN FEDERAL PAYMENT LEVY PROGRAM			
07-28-2003	MODULE REVERSED OUT OF FEDERAL PAYMENT LEVY PROGRAM			
11-21-2005	MODULE IN FEDERAL PAYMENT LEVY PROGRAM			
02-10-2006	FEDERAL TAX LIEN			
02-07-2006	INTENT TO LEVY COLLECTION DUE PROCESS NOTICE LEVY NOTICE ISSUED			

CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

H CLARK FORD III EIN/SSN: [Social Security Number Omitted]

TYPE OF TAX: CIVIL PENALTY
FORM: CVPN TAX PERIOD: DEC 1997

DATE	EXPLANATION OF TRANSACTION	ASSESSMENT, OTHER DEBITS (REVERSAL)	PAYMENT, CREDIT (REVERSAL)	ASSESSMENT DATE (23C, RAC 006)
02-14-2006	INTENT TO LEVY COLLECTION DUE PROCESS NOTICE RETURN RECEIPT SIGNED			
03-06-2006	LEGAL SUIT PENDING			
03-08-2006	COLLECTIONS WORKING CASE			
04-03-2006	MODULE REVERSED OUT OF FEDERAL PAYMENT LEVY PROGRAM			
03-08-2006	LEGAL SUIT PENDING			
11-10-2006	LEGAL SUIT NO LONGER PENDING			
12-14-2006	COLL DUE PROC HRNG RSLVD BY APPEALS-DETRMINATN LTR ISSUED, TXPYER WAIVD JUDCL REVW OR WTHDRW HRNG RQWST			
02-19-2007	MODULE IN FEDERAL PAYMENT LEVY PROGRAM			
10-18-1999	Statutory Notice of Balance Due			
12-13-1999	Statutory Notice of Intent to Levy			
10-03-2005	Statutory Notice of Intent to Levy			

CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

H CLARK FORD III EIN/SSN: [Social Security Number Omitted]

TYPE OF TAX: CIVIL PENALTY
FORM: CVPN TAX PERIOD: DEC 1997

BALANCE 500.00

I CERTIFY THAT THE FOREGOING TRANSCRIPT OF THE TAXPAYER NAMED ABOVE IN RESPECT TO THE TAXES SPECIFIED IS A TRUE AND COMPLETE TRANSCRIPT FOR THE PERIOD STATED, AND ALL ASSESSMENTS, ABATEMENTS, CREDITS, REFUNDS, AND ADVANCE OR UNIDENTIFIED PAYMENTS, AND THE ASSESSED BALANCE RELATING THERETO, AS DISCLOSED BY THE RECORDS OF THIS OFFICE AS OF THE ACCOUNT STATUS DATE ARE SHOWN THEREIN. I FURTHER CERTIFY THAT THE OTHER SPECIFIED MATTERS SET FORTH IN THIS TRANSCRIPT APPEAR IN THE OFFICIAL RECORDS OF THE INTERNAL REVENUE SERVICE.

SIGNATURE OF CERTIFYING OFFICER: Sally Gale

PRINT NAME: Sally Gale

TITLE: Supervisor Accounting Technician, Ogden W&I Submission Processing

DELEGATION ORDER: SW Delegation Order 198

LOCATION: INTERNAL REVENUE SERVICE

ACCOUNT STATUS DATE 09/24/2007

[SEAL]

United States of America

Department of the Treasury
Internal Revenue Service

Date: Sept. 24, 2007

CERTIFICATE OF OFFICIAL RECORD

I certify that the annexed: is a true Form 4340, Certificate of Assessments, Payments and Other Specified Matters for H. Clark Ford, III, SSN: [Social Security Number Omitted], for U.S. individual Income Tax Return (Form 1040), for the tax period ending December 31, 1998, consisting of five pages under the custody of this office.

IN WITNESS WHEREOF, I have hereunto set my hand, and caused the seal of this office to be affixed, on the day and year first above written.

By direction of the Secretary of the Treasury:

/s/ Sally Gale
Sally Gale
Supervisor Accounting Technician
Ogden W&I Submission Processing
SW Delegation Order 198

CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

H CLARK FORD III EIN/SSN: [Social Security Number Omitted]

TYPE OF TAX: INDIVIDUAL INCOME TAX RETURN
FORM: 1040 TAX PERIOD: DEC 1998

DATE	EXPLANATION OF TRANSACTION	ASSESSMENT, OTHER DEBITS (REVERSAL)	PAYMENT, CREDIT (REVERSAL)	ASSESSMENT DATE (23C, RAC 006)
	ADJUSTED GROSS INCOME 104,921.00			
	TAXABLE INCOME 97,971.00			
11-20-1999	SUBSTITUTE FOR RETURN 82210-324-25321-9		0.00	12-20-1999
01-28-1999	RECEIVED POA/TIA			
04-15-1999	EXTENSION OF TIME TO FILE EXT. DATE 08-15-1999			
08-16-1999	EXTENSION OF TIME TO FILE EXT. DATE 10-15-1999			
10-29-1999	REMOVED POA/TIA			
12-09-1999	RECEIVED POA/TIA			
	ESTIMATED TAX PENALTY 20024908	780.51		12-16-2002
	LATE FILING PENALTY 20024908	3,837.83		12-16-2002
04-15-1999	WITHHOLDING CREDIT		2.00	
	ADDITIONAL TAX ASSESSED BY EXAMINATION AUDIT DEFICIENCY PER DEFAULT OF 90 DAY LETTER 29247-729-00181-2 20024908	17,059.00		12-16-2002
12-16-2002	RENUMBERED RETURN 29247-729-00181-2			

H CLARK FORD III EIN/SSN: [Social Security Number Omitted]

TYPE OF TAX: INDIVIDUAL INCOME TAX RETURN
FORM: 1040 TAX PERIOD: DEC 1998

DATE	EXPLANATION OF TRANSACTION	ASSESSMENT, OTHER DEBITS (REVERSAL)	PAYMENT, CREDIT (REVERSAL)	ASSESSMENT DATE (23C, RAC 006)
	INTEREST ASSESSED 20024908	6,536.45		12-16-2002
	FAILURE TO PAY TAX PENALTY 20024908	3,837.82		12-16-2002
02-24-2003	MODULE BLOCKED OR RELEASED FROM FEDERAL PAYMENT LEVY PROGRAM			
05-18-2003	INTENT TO LEVY COLLECTION DUE PROCESS NOTICE LEVY NOTICE ISSUED			
05-30-2003	INTENT TO LEVY COLLECTION DUE PROCESS NOTICE RETURN RECEIPT SIGNED			
09-02-2003	REMOVED POA/TIA			
01-19-2004	REVERSAL OF MODULE BLOCKED FROM FEDERAL PAYMENT LEVY PROGRAM			
10-24-2005	MODULE IN FEDERAL PAYMENT LEVY PROGRAM			

CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

H CLARK FORD III EIN/SSN: [Social Security Number Omitted]

TYPE OF TAX: INDIVIDUAL INCOME TAX RETURN
FORM: 1040 TAX PERIOD: DEC 1998

DATE	EXPLANATION OF TRANSACTION	ASSESSMENT, OTHER DEBITS (REVERSAL)	PAYMENT, CREDIT (REVERSAL)	ASSESSMENT DATE (23C, RAC 006)
11-07-2005	MODULE REVERSED OUT OF FEDERAL PAYMENT LEVY PROGRAM			
12-12-2005	MODULE IN FEDERAL PAYMENT LEVY PROGRAM			
02-10-2006	FEDERAL TAX LIEN			
03-08-2006	COLLECTIONS WORKING CASE			
04-03-2006	MODULE REVERSED OUT OF FEDERAL PAYMENT LEVY PROGRAM			
03-08-2006	LEGAL SUIT PENDING			
07-28-2006	LEGAL SUIT NO LONGER PENDING			
12-14-2006	COLL DUE PROC HRNG RSLVD BY APPEALS-DETRMINATN LTR ISSUED, TXPYR WAIVD JUDCL REVW OR WTHDEW HRNG RQST			
02-19-2006	MODULE IN FEDERAL PAYMENT LEVY PROGRAM			
12-16-2002	Statutory Notice of Balance Due			
01-06-2003	statutory Notice of Intent to Levy			
10-24-2005	Statutory Notice of Intent to Levy			

CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

H CLARK FORD III EIN/SSN: [Social Security Number Omitted]

TYPE OF TAX: U.S. INDIVIDUAL INCOME TAX RETURN
FORM: 1040 TAX PERIOD: DEC 1998

DATE	EXPLANATION OF TRANSACTION	ASSESSMENT, OTHER DEBITS (REVERSAL)	PAYMENT, CREDIT (REVERSAL)	ASSESSMENT DATE (23C, RAC 006)
10-24-2005	Statutory Notice of Intent to Levy			

CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

H CLARK FORD III EIN/SSN: [Social Security Number Omitted]

TYPE OF TAX: U.S. INDIVIDUAL INCOME TAX RETURN

FORM: 1040 TAX PERIOD: DEC 1998

BALANCE 32,049.61

I CERTIFY THAT THE FORFGOING *TRANSCRIPT* OF THE TAXPAYER NAMED ABOVE IN RESPECT TO THE TAXES SPECIFIED IS A TRUE AND COMPLETE TRANSCRIPT FOR THE PERIOD STATED, AND ALL ASSESSMENTS, ABATEMENTS, CREDITS, REFUNDS, AND ADVANCE OR UNIDENTIFIED PAYMENTS, AND THE ASSESSED BALANCE RELATING THERETO, AS DISCLOSED BY THE RECORDS OF THIS OFFICE AS OF THE ACCOUNT STATUS DATE ARE SHOWN THEREIN. I FURTHER CERTIFY THAT THE OTHER SPECIFIED MATTERS SET FORTH IN THIS TRANSCRIPT APPEAR IN THE OFFICIAL RECORDS OF THE INTERNAL REVENUE SERVICE.

SIGNATURE OF CERTIFYING OFFICER: Sally Gale

PRINT NAME: Sally Gale

TITLE: Supervisor Accounting Technician, Ogden W&I Submission Processing

DELEGATION ORDER: SW Delegation Order 198

LOCATION: INTERNAL REVENUE SERVICE

ACCOUNT STATUS DATE 09/24/2007

[SEAL]

United States of America

Department of the Treasury
Internal Revenue Service

Date: Sept. 24, 2007

CERTIFICATE OF OFFICIAL RECORD

I certify that the annexed: is a true Form 4340, Certificate of Assessments, Payments and Other Specified Matters for H. Clark Ford, III, SSN: [Social Security Number Omitted], for Civil Penalty, for the tax period ending December 31, 1998, consisting of three pages under the custody of this office.

IN WITNESS WHEREOF, I have hereunto set my hand, and caused the seal of this office to be affixed, on the day and year first above written.

By direction of the Secretary of the Treasury:

/s/ Sally Gale
Sally Gale
Supervisor Accounting Technician
Ogden W&I Submission Processing
SW Delegation Order 198

CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

H CLARK FORD III EIN/SSN: [Social Security Number Omitted]

TYPE OF TAX: CIVIL PENALTY
FORM: CVPN TAX PERIOD: DEC 1998

DATE	EXPLANATION OF TRANSACTION	ASSESSMENT, OTHER DEBITS (REVERSAL)	PAYMENT, CREDIT (REVERSAL)	ASSESSMENT DATE (23C, RAC 006)
	MISCELLANEOUS PENALTY IRC 6702 PENALTY FOR FILING FRIVOLOUS INCOME TAX RETURN 29254-673-52016-9 19994008		500.00	10-18-1999
	ADDITIONAL TAX ASSESSED 29254-673-52016-9 19994008		0.00	10-18-1999
02-21-2000	MODULE BLOCKED OR RELEASED FROM FEDERAL PAYMENT LEVY PROGRAM			
12-30-2002	REVERSAL OF MODULE BLOCKED FROM FEDERAL PAYMENT LEVY PROGRAM			
12-30-2002	MODULE IN FEDERAL PAYMENT LEVY PROGRAM			
07-28-2003	MODULE REVERSED OUT OF FEDERAL PAYMENT LEVY PROGRAM			
11-21-2005	MODULE IN FEDERAL PAYMENT LEVY PROGRAM			
02-10-2006	FEDERAL TAX LIEN			
02-07-2006	INTENT TO LEVY COLLECTION DUE PROCESS NOTICE LEVY NOTICE ISSUED			

CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

H CLARK FORD III EIN/SSN: [Social Security Number Omitted]

TYPE OF TAX: CIVIL PENALTY
FORM: CVPN TAX PERIOD: DEC 1998

DATE	EXPLANATION OF TRANSACTION	ASSESSMENT, OTHER DEBITS (REVERSAL)	PAYMENT, CREDIT (REVERSAL)	ASSESSMENT DATE (23C, RAC 006)
02-14-2006	INTENT TO LEVY COLLECTION DUE PROCESS NOTICE RETURN RECEIPT SIGNED			
03-06-2006	LEGAL SUIT PENDING			
03-08-2006	COLLECTIONS WORKING CASE			
04-03-2006	MODULE REVERSED OUT OF FEDERAL PAYMENT LEVY			
03-08-2006	LEGAL SUIT PENDING			
11-10-2006	LEGAL SUIT NO LONGER PENDING			
12-14-2006	COLL DUE PROC HRNG RSLVD BY APPEALS-DETRMINATN LTR ISSUED, TXPYER WAIVD JUDCL REVW OR WTHDRW HRNG RQWST			
02-19-2007	MODULE IN FEDERAL PAYMENT LEVY PROGRAM			
10-18-1999	Statutory Notice of Balance Due			
12-13-1999	Statutory Notice of Intent to Levy			
10-03-2005	Statutory Notice of Intent to Levy			

CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

H CLARK FORD III EIN/SSN: [Social Security Number Omitted]

TYPE OF TAX: CIVIL PENALTY
FORM: CVPN TAX PERIOD: DEC 1998

BALANCE 500.00

I CERTIFY THAT THE FOREGOING TRANSCRIPT OF THE TAXPAYER NAMED ABOVE IN RESPECT TO THE TAXES SPECIFIED IS A TRUE AND COMPLETE TRANSCRIPT FOR THE PERIOD STATED, AND ALL ASSESSMENTS, ABATEMENTS, CREDITS, REFUNDS, AND ADVANCE OR UNIDENTIFIED PAYMENTS, AND THE ASSESSED BALANCE RELATING THERETO, AS DISCLOSED BY THE RECORDS OF THIS OFFICE AS OF THE ACCOUNT STATUS DATE ARE SHOWN THEREIN. I FURTHER CERTIFY THAT THE OTHER SPECIFIED MATTERS SET FORTH IN THIS TRANSCRIPT APPEAR IN THE OFFICIAL RECORDS OF THE INTERNAL REVENUE SERVICE.

SIGNATURE OF CERTIFYING OFFICER: Sally Gale

PRINT NAME: Sally Gale

TITLE: Supervisor Accounting Technician, Ogden W&I Submission Processing

DELEGATION ORDER: SW Delegation Order 198

LOCATION: INTERNAL REVENUE SERVICE

ACCOUNT STATUS DATE 09/24/2007

[SEAL]
United States of America

Department of the Treasury
Internal Revenue Service

Date: Sept. 24, 2007

CERTIFICATE OF OFFICIAL RECORD

I certify that the annexed: is a true Form 4340, Certificate of Assessments, Payments and Other Specified Matters for H. Clark Ford, III, SSN: [Social Security Number Omitted], for Civil Penalty, for the tax period ending December 31, 1999, consisting of three pages under the custody of this office.

IN WITNESS WHEREOF, I have hereunto set my hand, and caused the seal of this office to be affixed, on the day and year first above written.

By direction of the Secretary of the Treasury:

/s/ Sally Gale
Sally Gale
Supervisor Accounting Technician
Ogden W&I Submission Processing
SW Delegation Order 198

CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

H CLARK FORD III EIN/SSN: [Social Security Number Omitted]

TYPE OF TAX: CIVIL PENALTY
FORM: CVPN TAX PERIOD: DEC 1999

DATE	EXPLANATION OF TRANSACTION	ASSESSMENT, OTHER DEBITS (REVERSAL)	PAYMENT, CREDIT (REVERSAL)	ASSESSMENT DATE (23C, RAC 006)
	MISCELLANEOUS PENALTY IRC 6702 PENALTY FOR FILING FRIVOLOUS INCOME TAX RETURN 29254-559-52050-1 20012508		500.00	07-02-2001
	ADDITIONAL TAX ASSESSED 29254-559-52050-1 20012508		0.00	07-02-2001
04-01-2002	MODULE BLOCKED OR RELEASED FROM FEDERAL PAYMENT LEVY PROGRAM			
12-30-2002	REVERSAL OF MODULE BLOCKED FROM FEDERAL PAYMENT LEVY PROGRAM			
12-30-2002	MODULE IN FEDERAL PAYMENT LEVY PROGRAM			
07-28-2003	MODULE REVERSED OUT OF FEDERAL PAYMENT LEVY PROGRAM			
11-21-2005	MODULE IN FEDERAL PAYMENT LEVY PROGRAM			
02-10-2006	FEDERAL TAX LIEN			
02-07-2006	INTENT TO LEVY COLLECTION DUE PROCESS NOTICE LEVY NOTICE ISSUED			

CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

H CLARK FORD III EIN/SSN: [Social Security Number Omitted]

TYPE OF TAX: CIVIL PENALTY
FORM: CVPN TAX PERIOD: DEC 1999

DATE	EXPLANATION OF TRANSACTION	ASSESSMENT, OTHER DEBITS (REVERSAL)	PAYMENT, CREDIT (REVERSAL)	ASSESSMENT DATE (23C, RAC 006)
02-14-2006	INTENT TO LEVY COLLECTION DUE PROCESS NOTICE RETURN RECEIPT SIGNED			
03-06-2006	LEGAL SUIT PENDING			
03-08-2006	COLLECTIONS WORKING CASE			
04-03-2006	MODULE REVERSED OUT OF FEDERAL PAYMENT LEVY PROGRAM			
03-08-2006	LEGAL SUIT PENDING			
11-10-2006	LEGAL SUIT NO LONGER PENDING			
12-14-2006	COLL DUE PROC HRNG RSLVD BY APPEALS – DETRMINATN LTR ISSUED, TXPYR WAIVD JUDCL REVW OR WTHDRW HRNG RQST			
02-19-2007	MODULE IN FEDERAL PAYMENT LEVY PROGRAM			
07-02-2001	Statutory Notice of Balance Due			
02-04-2002	Statutory Notice of Intent to Levy			
10-03-2005	Statutory Notice of Intent to Levy			

CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

H CLARK FORD III EIN/SSN: [Social Security Number Omitted]

TYPE OF TAX: CIVIL PENALTY
FORM: CVPN TAX PERIOD: DEC 1999

BALANCE 500.00

I CERTIFY THAT THE FOREGOING TRANSCRIPT OF THE TAXPAYER NAMED ABOVE IN RESPECT TO THE TAXES SPECIFIED IS A TRUE AND COMPLETE TRANSCRIPT FOR THE PERIOD STATED, AND ALL ASSESSMENTS, ABATEMENTS, CREDITS, REFUNDS, AND ADVANCE OR UNIDENTIFIED PAYMENTS, AND THE ASSESSED BALANCE RELATING THERETO, AS DISCLOSED BY THE RECORDS OF THIS OFFICE AS OF THE ACCOUNT STATUS DATE ARE SHOWN THEREIN. I FURTHER CERTIFY THAT THE OTHER SPECIFIED MATTERS SET FORTH IN THIS TRANSCRIPT APPEAR IN THE OFFICIAL RECORDS OF THE INTERNAL REVENUE SERVICE.

SIGNATURE OF CERTIFYING OFFICER: Sally Gale

PRINT NAME: Sally Gale

TITLE: Supervisor Accounting Technician, Ogden W&I Submission Processing

DELEGATION ORDER: SW Delegation Order 198

LOCATION: INTERNAL REVENUE SERVICE

ACCOUNT STATUS DATE 09/24/2007

[SEAL]
United States of America

Department of the Treasury
Internal Revenue Service

Date: Sept. 24, 2007

CERTIFICATE OF OFFICIAL RECORD

I certify that the annexed: is a true Form 4340, Certificate, of Assessments, Payments and Other Specified Matters for H. Clark Ford, III, SSN: [Social Security Number Omitted] and Spouses SSN: [Social Security Number Omitted], for U.S. individual Income Tax Return (Form 1040), for the tax period ending December 31, 1999, consisting of four pages under the custody of this office.

IN WITNESS WHEREOF, I have hereunto set my hand, and caused the seal of this office to be affixed, on the day and year first above written.

By direction of the Secretary of the Treasury:

/s/ Sally Gale
Sally Gale
Supervisor Accounting Technician
Ogden W&I Submission Processing
SW Delegation Order 198

CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

H CLARK FORD III

EIN/SSN: [Social Security Number Omitted]
[Social Security Number Omitted]

TYPE OF TAX: U.S. INDIVIDUAL INCOME TAX RETURN
FORM: 1040 TAX PERIOD: DEC 1999

DATE	EXPLANATION OF TRANSACTION	ASSESSMENT, OTHER DEBITS (REVERSAL)	PAYMENT, CREDIT (REVERSAL)	ASSESSMENT DATE (23C, RAC 006)
	ADJUSTED GROSS INCOME 57,074.00			
	TAXABLE INCOME 50,724.00			
11-05-2001	SUBSTITUTE FOR RETURN 29210-307-25507-1		0.00	12-03-2001
06-04-1999	RECEIVED POA/TIA			
10-29-1999	REMOVED POA/TIA			
12-09-1999	RECEIVED POA/TIA			
09-02-2003	REMOVED POA/TIA			
	ESTIMATED TAX PENALTY 20051408		551.22	04-18-2005
	LATE FILING PENALTY 20051408		2,562.97	04-18-2005
04-15-2000	WITHHOLDING CREDIT		14.00	
	ADDITIONAL TAX ASSESSED BY EXAMINATION AUDIT DEFICIENCY PER DEFAULT OF 90 DAY LETTER 49247-484-00099-5 20051408	11,405.00		04-18-2005
04-18-2005	RENUMBERED RETURN 49247-484-00099-5			

INTEREST ASSESSED 20051408	5,054.09	04-18-2005
FAILURE TO PAY TAX PENALTY 20051408	2,847.75	04-18-2005

CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

H CLARK FORD III

EIN/SSN: [Social Security Number Omitted]
[Social Security Number Omitted]

TYPE OF TAX: U.S. INDIVIDUAL INCOME TAX RETURN
FORM: 1040 TAX PERIOD: DEC 1999

DATE	EXPLANATION OF TRANSACTION	ASSESSMENT, OTHER DEBITS (REVERSAL)	PAYMENT, CREDIT (REVERSAL)	ASSESSMENT DATE (23C, RAC 006)
10-03-2005	MODULE BLOCKED OR RELEASED FROM FEDERAL PAYMENT LEVY PROGRAM			
09-24-2005	REVERSAL OF MODULE BLOCKED FROM FEDERAL PAYMENT LEVY PROGRAM			
10-24-2005	MODULE IN FEDERAL PAYMENT LEVY PROGRAM			
02-10-2006	FEDERAL TAX LIEN			
02-07-2006	INTENT TO LEVY COLLECTION DUE PROCESS NOTICE LEVY NOTICE ISSUED			
02-14-2006	INTENT TO LEVY COLLECTION DUE PROCESS NOTICE RETURN RECEIPT SIGNED			
03-08-2006	COLLECTIONS WORKING CASE			
04-03-2006	MODULE REVERSED OUT OF FEDERAL PAYMENT LEVY PROGRAM			
03-08-2006	LEGAL SUIT PENDING			

CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

H CLARK FORD III

EIN/SSN: [Social Security Number Omitted]
[Social Security Number Omitted]

TYPE OF TAX: U.S. INDIVIDUAL INCOME TAX RETURN
FORM: 1040 TAX PERIOD: DEC 1999

DATE	EXPLANATION OF TRANSACTION	ASSESSMENT, OTHER DEBITS (REVERSAL)	PAYMENT, CREDIT (REVERSAL)	ASSESSMENT DATE (23C, RAC 006)
07-28-2006	LEGAL SUIT NO LONGER PENDING			
12-14-2006	COLL DUE PROC HRNG RSLVD BY APPEALS – DETRMINATN LTR ISSUED, TXPYR WAIVD JUDCL REW OR WTHDRW HRNG RQST			
02-19-2007	MODULE IN FEDERAL PAYMENT LEVY PROGRAM			
04-18-2005	Statutory Notice of Balance Due			
05-23-2005	Notice of Balance Due			
06-27-2005	Statutory Notice of Intent to Levy			

CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

H CLARK FORD III EIN/SSN: [Social Security Numbers Omitted]

TYPE OF TAX: U.S. INDIVIDUAL INCOME TAX RETURN

FORM: 1040 TAX PERIOD: DEC 1999

BALANCE 22,407.03

I CERTIFY THAT THE FOREGOING TRANSCRIPT OF THE TAXPAYER NAMED ABOVE IN RESPECT TO THE TAXES SPECIFIED IS A TRUE AND COMPLETE TRANSCRIPT FOR THE PERIOD STATED, AND ALL ASSESSMENTS, ABATEMENTS, CREDITS, REFUNDS, AND ADVANCE OR UNIDENTIFIED PAYMENTS, AND THE ASSESSED BALANCE RELATING THERETO, AS DISCLOSED BY THE RECORDS OF THIS OFFICE AS OF THE ACCOUNT STATUS DATE ARE SHOWN THEREIN. I FURTHER CERTIFY THAT THE OTHER SPECIFIED MATTERS SET FORTH IN THIS TRANSCRIPT APPEAR IN THE OFFICIAL RECORDS OF THE INTERNAL REVENUE SERVICE.

SIGNATURE OF CERTIFYING OFFICER: Sally Gale

PRINT NAME: Sally Gale

TITLE: Supervisor Accounting Technician, Ogden W&I Submission Processing

DELEGATION ORDER: SW Delegation Order 198

LOCATION: INTERNAL REVENUE SERVICE

ACCOUNT STATUS DATE 09/24/2007

[SEAL]
United States of America

Department of the Treasury
Internal Revenue Service

Date: Sept. 24, 2007

CERTIFICATE OF OFFICIAL RECORD

I certify that the annexed: is a true Form 4340, Certificate of Assessments, Payments and Other Specified Matters for H. Clark Ford, III, [Social Security Number Omitted], for U.S. Individual Income Tax Return (Form 1040), for the tax period ending December 31, 1997, consisting of six pages under the custody of this office.

IN WITNESS WHEREOF, I have hereunto set my hand, and caused the seal of this office to be affixed, on the day and year first above written.

By direction of the Secretary of the Treasury:

/s/ Sally Gale
Sally Gale
Supervisor Accounting Technician
Ogden W&I Submission Processing
SW Delegation Order 198

CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

H CLARK FORD III EIN/SSN: [Social Security Number Omitted]

TYPE OF TAX: U.S. INDIVIDUAL INCOME TAX RETURN
FORM: 1040 TAX PERIOD: DEC 1997

DATE	EXPLANATION OF TRANSACTION	ASSESSMENT, OTHER DEBITS (REVERSAL)	PAYMENT, CREDIT (REVERSAL)	ASSESSMENT DATE (23C, RAC 006)
	ADJUSTED GROSS INCOME 89,089.00			
	TAXABLE INCOME 82,289.00			
10-15-1999	SUBSTITUTE FOR RETURN 82210-303-25310-9		0.00	11-29-1999
04-15-1998	EXTENSION OF TIME TO FILE EXT. DATE 08-15-1998			
08-17-1998	EXTENSION OF TIME TO FILE EXT. DATE 10-15-1998			
01-28-1999	RECEIVED POA/TIA			
10-29-1999	REMOVED POA/TIA			
12-09-1999	RECEIVED POA/TIA			
	ESTIMATED TAX PENALTY 20024908		125.97	12-16-2002
	LATE FILING PENALTY 20024908		3,148.43	12-16-2002
	ADDITIONAL TAX ASSESSED BY EXAMINATION AUDIT DEFICIENCY PER DEFAULT OF 90 DAY LETTER 29247-729-00180-2 20024908		13,993.00	12-16-2002
12-16-2001	RENUMBERED RETURN 29247-729-00180-2			

INTEREST ASSESSED 20024908	7.176.32	12-16-2002

CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

H CLARK FORD III EIN/SSN: [Social Security Number Omitted]

TYPE OF TAX: U.S. INDIVIDUAL INCOME TAX RETURN
FORM: 1040 TAX PERIOD: DEC 1997

DATE	EXPLANATION OF TRANSACTION	ASSESSMENT, OTHER DEBITS (REVERSAL)	PAYMENT, CREDIT (REVERSAL)	ASSESSMENT DATE (23C, RAC 006)
	FAILURE TO PAY TAX PENALTY 20024908	3,498.25		12-16-2002
02-24-2003	MODULE BLOCKED OR RELEASED FROM FEDERAL PAYMENT LEVY PROGRAM			
05-18-2003	INTENT TO LEVY COLLECTION DUE PROCESS NOTICE LEVY NOTICE SIGNED			
05-30-2003	INTENT TO LEVY COLLECTION DUE PROCESS NOTICE RETURN RECEIPT SIGNED			
09-02-2003	REMOVED POA TIA			
01-19-2004	REVERSAL OF MODULE BLOCKED FROM FEDERAL PAYMENT LEVY PROGRAM			
10-24-2005	MODULE IN FEDERAL PAYMENT LEVY PROGRAM			
11-07-2005	MODULE REVERSED OUT OF FEDERAL PAYMENT LEVY PROGRAM			

CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

H CLARK FORD III EIN/SSN: [Social Security Number Omitted]

TYPE OF TAX: U.S. INDIVIDUAL INCOME TAX RETURN
FORM: 1040 TAX PERIOD: DEC 1997

DATE	EXPLANATION OF TRANSACTION	ASSESSMENT, OTHER DEBITS (REVERSAL)	PAYMENT, CREDIT (REVERSAL)	ASSESSMENT DATE (23C, RAC 006)
12-12-2005	MODULE IN FEDERAL PAYMENT LEVY PROGRAM			
02-10-2006	FEDERAL TAX LIEN			
03-08-2006	COLLECTIONS WORKING CASE			
04-03-2006	MODULE REVERSED OUT OF FEDERAL PAYMENT LEVY PROGRAM			
03-08-2006	LEGAL SUIT PENDING			
08-08-2006	SUBSEQUENT PAYMENT LEVY		13,058.46	
09-07-2006	SUBSEQUENT PAYMENT LEVY		806.60	
10-10-2006	SUBSEQUENT PAYMENT LEVY		817.53	
11-06-2006	SUBSEQUENT PAYMENT LEVY		621.38	
07-28-2006	LEGAL SUIT NO LONGER PENDING			

CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

H CLARK FORD III EIN/SSN: [Social Security Number Omitted]

TYPE OF TAX: U.S. INDIVIDUAL INCOME TAX RETURN
FORM: 1040 TAX PERIOD: DEC 1997

DATE	EXPLANATION OF TRANSACTION	ASSESSMENT, OTHER DEBITS (REVERSAL)	PAYMENT, CREDIT (REVERSAL)	ASSESSMENT DATE (23C, RAC 006)
12-07-2006	SUBSEQUENT PAYMENT LEVY		1,221.22	
12-14-2006	COLL DUE PROC HRNG RSLVD BY APPEALS – DETRMINATN LTR ISSUED, TXPYR WAIVD JUDCL REVW OR WTHDRW HRNG RQST			
01-08-2007	SUBSEQUENT PAYMENT LEVY		2,686.48	
02-19-2007	MODULE IN FEDERAL PAYMENT LEVY PROGRAM			
02-05-2007	SUBSEQUENT PAYMENT LEVY		1,094.34	
03-05-2007	SUBSEQUENT PAYMENT LEVY		1,145.64	
04-11-2007	SUBSEQUENT PAYMENT LEVY		1,400.29	
05-08-2007	SUBSEQUENT PAYMENT LEVY		821.00	
06-05-2007	SUBSEQUENT PAYMENT LEVY		1,017.62	

CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

H CLARK FORD III EIN SSN: [Social Security Number Omitted]

TYPE OF TAX: U.S. INDIVIDUAL INCOME TAX RETURN
FORM: 1040 TAX PERIOD: DEC 1997

DATE	EXPLANATION OF TRANSACTION	ASSESSMENT, OTHER DEBITS (REVERSAL)	PAYMENT, CREDIT (REVERSAL)	ASSESSMENT DATE (23C, RAC 006)
07-09-2007	SUBSEQUENT PAYMENT LEVY		2,806.77	
08-06-2007	SUBSEQUENT PAYMENT LEVY		900.41	
	INTERESTED ASSESSED 20073308	455.77		08-27-2007
02-22-1999	Taxpayer Delinquency Notice			
04-19-1999	Taxpayer Delinquency Notice			
12-16-2002	Statutory Notice of Balance Due			
01-06-2003	Statutory Notice of Intent to Levy			
10-24-2005	Statutory Notice of Intent to Levy			

CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

H CLARK FORD III EIN/SSN: [Social Security Number Omitted]

TYPE OF TAX: U.S. INDIVIDUAL INCOME TAX RETURN

FORM: 1040 TAX PERIOD: DEC 1997

BALANCE 0.00

I CERTIFY THAT THE FOREGOING TRANSCRIPT OF THE TAXPAYER NAMED ABOVE IN RESPECT TO THE TAXES SPECIFIED IS A TRUE AND COMPLETE TRANSCRIPT FOR THE PERIOD STATED, AND ALL ASSESSMENTS, ABATEMENTS, CREDITS, REFUNDS, AND ADVANCE OR UNIDENTIFIED PAYMENTS, AND THE ASSESSED BALANCE RELATING THERETO, AS DISCLOSED BY THE RECORDS OF THIS OFFICE AS OF THE ACCOUNT STATUS DATE ARE SHOWN THEREIN. I FURTHER CERTIFY THAT THE OTHER SPECIFIED MATTERS SET FORTH IN THIS TRANSCRIPT APPEAR IN THE OFFICIAL RECORDS OF THE INTERNAL REVENUE SERVICE.

SIGNATURE OF CERTIFYING OFFICER: Sally Gale

PRINT NAME: Sally Gale

TITLE: Supervisor Accounting Technician, Ogden W&I Submission Processing

DELEGATION ORDER: SW Delegation Order 198

LOCATION: INTERNAL REVENUE SERVICE

ACCOUNT STATUS DATE 09/24/2007

In the United States District Court

District of New Mexico

United States of America and
Internal Revenue Service
Petitioner

 # Mic. # 07-16 J.H.

v

H. Clark Ford III
Respondent

~~ORDER TO SHOW CAUSE~~

(May 01, 2007)

Motion for relief from void order based upon Rule 60(b)(4) for lack of jurisdiction and Rule 60(b)(3) Fraud Upon The Court in affidavit form with memorandum of law is support

Now Comes H. Clark Ford III, a natural living man making a special appearance for fear of his liberty, a motion for relief based upon a Rule 60(b)(4) for lack of jurisdiction and Rule 60(b)(3) for fraud upon the court in affidavit form with memorandum of law in support.

I. Cause of Action

This motion is founded upon the concept that jurisdiction is lacking. Respondent to the above styled cause seeks relief from order issued April 23 2007 at docket #7 Rule 60(b)(4) to where the court is for a

lack of jurisdiction to enforce administrative summons. Respondent also relies on Rule 60(b)(3) in that the above-mentioned order is directing the Respondent to participate with the Petitioner in fraudulent activity. The Respondent fails to waive the argument of en persona in that this motion is limited to questioning the jurisdiction of this court. Notice is hereby made that counsel for the Petitioner did not notify the Respondent for his consent to order issued April 23.Any impressions that Respondent approves of said order is in error. Respondent has failed to make contact to counsel for the Petitioner to approve of this motion. Two attempts were made on April 30 between 3:00 4:00 PM with out success.

II. Grounds for Which Motion Must Be Granted

1. Respondent is named as a legal fiction in that the Petitioner writes his name is all capital lends.
2. Respondent is named on the administrative petitions as a small business or a wage earner.
3. The Respondent lives outside the geographical jurisdiction of the US District Court District of New Mexico.
4. Petitioner filed a "Show Cause" complaint because "no returns had been filed"; this is a falsehood.
5. Petitioner issues a summons that has been obsolete for 23 years.
6. Neither summons sports an OMB number.

7. Court orders Responded to fill out a form that has no OMB#.

8. Petitioner makes claim that a tax liability exists where there is no assessment.

9. Petitioner has issued these summonses for purposes other then [sic] those stated.

10. Petitioner purports to have authority to issue an administrative summons where no such delegated authority exists.

11. Order forces Respondent to join the Petitioner in fraud.

12. Petitioner has committed fraud upon this court.

Affidavit of Material Facts
Of Horatio Clark Ford III

This affidavit of material facts frames my relationship to internal revenue laws of the United States. It is intended to comply with the "substantial authority standard" (26 CFR § 1.6662-4(d)) and the "good faith and reasonable cause standard" (26 CFR § 1.6664-4(a)). It also complies with requirements of state law, Federal Rules of Civil Procedure and Federal Rules of Evidence. Authority cites following fact statements, i.e., code sections, regulations, delegation orders and the like, are included to clarify statement application. I have personal knowledge of facts set forth herein (Rule 43(e), F.R.Civ.P. & Rule 602, F.R.Evid.). Declarations of material fact are as follows:

1. My name is Horatio Clark Ford III; I am a living, moral being endowed with unalienable rights to life, liberty and property, and all substantive rights secured by the Constitution of the United States and the Constitution of the State of New Mexico

2. I do not spell my name in all capital letters.

3. I am a Citizen of New Mexico, which is a State of the Union.

4. I have made Chaves County my home since 1976.

5. My abode and dwelling is geographically located in New Mexico, which is a State of the Union.

6. I am not domiciled with in any federal enclaves that might be located with in the borders of New Mexico (Article 1 Section 8 Clause 17 US Constitution).

7. I was not born in any geographical area as described as the "United States" or "State" (26 USCA 3121(e)(1)(2).

8. I passed from the womb upon the land of the particular state of Ohio.

9. I grew up in the particular state of Arizona.

10. To the best of my knowledge, I have never received notice from a District Director of an internal Revenue Service District, nor the Assistant Commissioner of Internal Revenue (International), that I am or ever have been required to keep books and records and file returns for any of the eight classes of tax administered by the Internal Revenue Service. (Letter 978 (DO) & Notice 555).

(See also, 26 U.S.C. § 6001, 26 CFR §§ 1.6001-1(d) & 31.6001-6 & Treasury Delegation Order No. 24).

11. I am not aware of any internal revenue district within the state of New Mexico

12. To the best of my knowledge, I have never received lawful and procedurally proper assessments of Federal taxes, penalties, or interest for calendar years ending December 31, 1996 through 2006. (26 U.S.C. § 6203, 26 CFR § 301.6203-1,)

13. In good faith, I have filed returns for years 1997-2006 in affidavit form in accordance with (6213 (g)(1) 6011 and 6012 (Exhibits 1-9)

14. All of the returns filed from 1997 thru 2006 have been made in Affidavit form and request a rebuttal.

15. The Treasury Department and or The Internal Revenue Service have acquiesced thru silence from 1997-2005 (Exhibit 10).

16. On March 17 2006, I sent a notice nunc pro tunc affidavit to ten different agencies of the Internal Revenue Service (Exhibit 11).

17. This Affidavit redeemed me from the social security# and the legal fiction H. CLARK FORD III.

18. I sent all of these agencies the notice nunc pro tunc by certified mail.

19. None of the agencies rebutted and all are in default.

20. I also sent this notice to agent Michael J. Pryor #84-10124.

21. Agent Michael J. Pryor #84-10124 failed to rebut and is in default of affidavit nunc pro tunc (Exhibit 12).

22. Nevertheless, Agent Michael J. Pryor #84-10124 filed a petition against me spelling my name in all capital letters after having given tacit admission to my notice of affidavit nunc pro tunc stating that I would disavow my name being spelled in capital letters (Exhibit 13)

23. I am not a small business.

24. I am not a wage earner.

25. I have made two offers to Agent Michael J. Pryor #84-10124 for a conditional acceptance for value (Exhibits 14 and 15.)

26. The condition was an offer of proof of delegated authority for which to issue summonses dated August 11 2006.

27. I would have agreed to waive my expectancy of privacy if . . . agent Michael J. Pryor #84-10124 would have been so kind to prove his delegated authority.

28. Agent Michael J. Pryor #84-10124 dishonored both offers (Exhibits 16 and 17).

29. Agent Michael J. Pryor #84-10124 cannot honor these offers because he has never identified himself as having the authority to issue an IRS summons (26 USC 7608)

30. Agent Michael J. Pryor #84-10124 dishonored a demand for summary assessment July 19 2006 for years 1996-2006 (Exhibits 18 and 19; 23 CFR 301.6203-1).

31. Agent Michael J. Pryor #84-10124 issued two summonses August 11 2006 (Exhibit 20).

32. Agent Michael J. Pryor #84-10124 filed out these summonses on form 2039.

33. The summonses served to my abode did not sport any OMB numbers.

34. Agent Michael J. Pryor #84-10124 failed to state delegated authority on these summonses (Exhibit 21)

35. Agent Michael J. Pryor #84-10124 failed to declare delegated authority to issue a summons on form 2039 in his declaratory statement.

36. In the last decade, to the best of my knowledge all of my sources, regardless of its nature, have been from sources in New Mexico and/or other States of the Union.

37. For the past decade, I have not been a citizen or resident of the geographical United States, including the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands. (See definitions of "United Slates", "State", and "citizen" at 26 CFR § 31.3121(e)-1)

38. I am not and never have been a citizen or resident of the political coalition, compact or alliance of territories and insular possessions of the United States known as the [Federal] United

States of America (not to be confused with the Union of States party to the Constitution known as the United States of America, established in the Articles of Confederation). (See notes following 18 U.S.C. § 1001; 40 Stat. 1015, c. 194)

39. I am not a resident alien or a citizen to the United States as described at 26 USCA 7701(a)(30), nor a principal of a foreign corporation, with income derived from sources within the United States. (See chapter 1 of the Internal Revenue Code generally; gross income "source" relating to items of income from taxable sources listed at 26 U.S.C. § 861 & 26 CFR § 1.8614 generally)

Under penalties of perjury, under the common law of the State of New Mexico and laws of the United States of America, I attest that to the best of my present knowledge, understanding and belief, all matters of fact set out above are accurate and true, so help me God.

/s/ H. Clark Ford III 4/30/07

H. Clark Ford III
A natural living man

Date 4/30/07

State of New Mexico
County of Chaves

NOTORIAL

Notary Public

On the date set out below, the foregoing Affidavit of Material Facts was sworn and signed in my presence by H. Clark Ford III, known to me.

/s/ Lori Doerhoefer — 4/30/07
Notary Public — Date

[SEAL] My commission expires. March 13, 2008

Memorandum of Law In Support of Motion to Set Aside

I. The Petition Fails to Render Jurisdiction to the Court.

A. En persona

The Respondent has lived in various locations thru out Chaves County since 1976.This is not a federal enclave[1] He resides outside this courts geographical jurisdiction. Nor may the Respondent be consider to be a citizen by birth because he was not born within the territorial confines of a federal district or any other places as described at 26 USCA 7701(a)(9)(10).

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[1] Article 1 section 8 clause 17 United States Constitution

By the doctrine of jus soli and thru the definitions from Title 26 Mr. Ford, unless he has had any sources from with in the Territorial District United States, is outside the jurisdiction of this court. Finally, the Petitioner has failed to render up the body in that he spelled the Respondents name in "all caps". H. Clark Ford III, the natural living man, appears out of fear for his liberty. His appearance remains *special*.[2]

B. Subject Matter

One may not render subject matter to a court based upon fraud. The purpose for rendering the Respondent to an administrative vendetta was based upon the notion that "no returns had been filed." Before Michael J. Pryor agent # 84-10124 filed his petition the Respondent wrote a refusal letter indicating that he had filed returns (Exhibit 23). Neither Michael J. Pryor agent # 84-10124 nor the Justice Department concerned themselves with what Mr. Ford had said. After the Respondent produced these returns, counsel for Michael J. Pryor agent # 84-10124 alluded that Mr. Pryor had no knowledge of these returns (Exhibit 25 page 3, lines 17 thru 25). In fact, Mr. Ford had sent Mr. Pryor a copy of his 2005 return of which he could have traversed in affidavit form and decided not to (Exhibit 9). The petition was filed on the notion that "no returns had been filed" it was not filed on the basis that "no1040's had been filed." The issue was whether returns were filed not whether or not the

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[2] 26 USCA 7604 (b)

returns that were filed are frivolous or that the law states, "One must file form 1040." In as much as the Petitoner [sic] has failed to amend the petitions this court fails to have jurisdiction over the subject matter. The Petitoner [sic] has also failed to file this petition under the proper section of Title 26, as we will soon discover.

II. Mr. Pryor Has Not Followed The Proper Administrative Procedures.

A. Delegated Authority

Michael J. Pryor agent # 84-10124 has committed fraud upon this court in giving the appearance that he has delegated authority for which to summons the Respondent into a "house of pains and penalties". He enables himself obscuring his lack of delegated authority by using obsolete form 2039 that has been outlawed since 1984:

> ***Rev Proc 55-6 prescribed a single form, Form 2039. Summons for use by all persons authorized to issue a summons under sections 7602. The revenue procedure also set forth a list of officers and employees of the internal revenue service authorized to issue summonses under 7602.***
>
> ***Other official summons forms have been provided for since the publication Rev Proc 55-6. Current service practice provides for the use of three additional official summons forms – Form 6637 Collection Summons Collection Information Statement; Form 6638***

Collection Summons Income Tax Return; and Form 6639 Collection Summons Financial Records.[3]

If the court will take notice that Rev Proc 84-62 provides for three different forms, which are more specific as to what kind of information the agent is able to procure – three different forms for three different types of information. This is too specific for Michael J. Pryor agent # 84-10124; so he prefers to assail his query the old way of doing things. Because Rev-Proc. 55-6 does not reflect current law and practice of the service, it is here by declared obsolete.[4]

On the face of both issued summonses, there is no documentation of delegated authority. On Form 2039, a space for any attestation is absent. There is no space where any such proof may be documented. It can also be evinced that Michael J. Pryor agent # 84-10124 fails to document his authority to issue the two summonses at exhibit 20. Nor does he make declaration of any delegation of authority in his petition at exhibit 21. The two summonses at exhibit 20 lack legal efficacy upon the face for three reasons:

1. Form 2039 is an obsolete form.
2. There are no controlling numbers on either of these summonses.

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[3] Rev Proc. 84-62 1984-37 I.R.B.35 1984-2 C.B. Sept 10 1984

[4] Rev Proc. 84-62 1984-37 I.R.B. 35 1984-2 C.B Sept 10 1984

3. Mr. Ford is not properly identified.

In addition to using a form for which has been declared obsolete for the last 23 years. Michael J. Pryor agent # 84-10124 snubs at the Paperwork Reduction Act. Respondent seeks protection and relief from this public servant by way of 44 USC 3512:

> ***(a) Not withstanding any other provision of law no person shall be subject to any penalty for failing to comply with a collection of information that is subject to this chapter if***
>
> ***1. The collection of information does not display a valid control number assigned by the director or***
>
> ***2. The agency fails to inform the person who is to respond to the collection of information that such person is not required to respond to the collection of information unless it displays a valid control number.***
>
> ***(b) the protection provided by this section may be raised to the form of a complete defense, bar, or otherwise at anytime during the agency administrative process or judicial action applicable there to.***[5]

While failing to follow proper revenue procedures, Mr. Pryor violates section 3512 of Title 44 by signing his

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[5] 44 USCA 3512

name to an obsolete summons form that has no OMB number. All the time that he is doing this he is deceiving the court into believing that he has the delegated authority to infringe on the respondents expec-expectancy of privacy. He also encourages the Justice. Department to join him in these fraudulent activities.

To exacerbate matters, Michael J. Pryor agent 84-10124 has to create a legal fiction to make assumptions that the natural living H. Clark Ford III can be assumed a "small business." This way he can summons H. CLARK FORD III – thus he files against a legal fiction. He has to do this to fit the Respondent into his illegal summons form 2039. The problem that we run into, however, is that by filing a petition against a legal fiction, Michael J. Pryor agent # 84-10124 has created a "John Doe" situation by spelling Mr. Ford's name in "all caps". A summons for a "John Doe" or even a "small business" can only be filed under a petition to the district court based upon a section 7609(f) not section 7602.[6]

The Petitioner committed fraud upon the court by misrepresenting to the court as to who the Respondent really is. He has to do this to get Mr. Ford to fit into his illegal summonses.

The problem we run into however is that now the subject matter fails to fit the circumstances. Mr. Pryor filed under the wrong section of Title 26. "Revenue

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[6] *See* D.O. No. 4rev 22 1997

officers may use JOHN DOE summonses in their investigations; however they are not authorized *to issue JOHN DOE summonses* (emphasis added). Pursuant to delegation order 34 (rev. 22), the Area Director and the Field Territory Manager are authorized to issue JOHN DOE summonses. No one may serve a JOHN DOE summons without *first* (*emphasis added*) obtaining approval from the appropriate federal district court."[7] Michael J. Pryor agent # 84-10124 did not file under section 7609(f). He did not have the authority to do so. He could not clear it with this court prior to August 11 2006. Thus to employ this court to enforce his summonses he files under 7602 which is inappropriate for a JOHN DOE summons, but to carry thru with the ruse he has to transform Mr. Ford into a legal fiction. "Where party intentionally deceives court as to identity of litigant and permits court to waste its time on trial of action against non existing party such conduct constitutes fraud upon the court"[8]

The Respondent brings proof that Michael J. Pryor agent # 84-10124 did not go thru the proper procedures to procure the delegated authority to violate Mr. Ford's expectancy of privacy under the Fourth Amendment. On September 6 2006, the Respondent affected to Michael J. Pryor agent # 84-10124 a conditional notice of acceptance for proof of delegated

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[7] Legal Reference guide for revenue officers Chapter 5.17 6 2.1 (2) Statutory Authority

[8] *Halloran v Blue and White Liberty* Cab 92 NW 2d.794

authority (Exhibit 14). Michael J. Pryor agent # 84-10124 dishonored this offer (Exhibit 16). Later Mr. Ford attempted to contract with Michael J. Pryor agent # 84-10124 on November 16 2006 (Exhibit 15) and was again dishonored on December 6 2006 (Exhibit 17).

B. Liability

The two summonses at exhibit 20 have no purpose. Michael J. Pryor agent # 84-10124 had already admitted as early as July 19 that there had been no assessment. Counsel for Mr. Pryor falsely presented herself when she testified that her client had sent Mr. Ford an assessment (exhibit 25 page 8 lines 12-13). First of all this is hearsay information in that counsel may not testify to fact.

If Mr. Pryor were to testify that, he had sent out assessments he would be lying. On the 31st day of May, a one Cameron A. Hedgedus hand delivered a demand for assessment (Exhibit 18). Mr. Ford made this demand upon 26 CFR 301.6203-1; it asked for the dated assessments for each year by an assessment officer under sworn statement as required by the regulation. Michael J. Pryor agent # 84-10124 did not send Mr. Ford any of these assessments for years 1996-2006. Rather, the Petitioner dishonored Mr. Ford's demand for assessment and notice was given on July 19 2006 (exhibit 19) Thru his silence to the issue of assessment Michael J. Pryor agent # 84-10124 admits that there is no liability; yet not three

weeks after his tacit admission Mr. Pryor issues and serves his unauthorized summonses. "In order to establish that IRS summons has been issued in good faith it must be determined that investigation was pursuant to a legitimate purpose, that the inquiry was relevant to that purpose, that the information sought was not already with in the commissioners possession and that the administrative steps required by the code have been followed."[9] There is no purpose to an IRS summons if it is established that Mr. Ford has no tax liability from 1996-2006.

III. Abuse of Discretion

Whether one is to concur that an order is in line with law and reason, one must follow a court order as best he or she can. The issue at bar for this case was "no returns have been filed." The Respondent wrote both the Justice Department and the Petitioner asserting that returns had been filed (Exhibit 23). After Mr. Ford made his entry and brought forth his returns the Petitioner retorts that all these returns are frivolous (Exhibit 25 page 3 lines 16-19). Michael J. Pryor agent # 84-10124 did not file this complaint based upon the notion that "no 1040s had been filed." After the Respondent brought forth the returns, there was no longer an issue before the court and the court lacks jurisdiction over the subject matter. The Respondent cannot defend himself when it is unclear as

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[9] *Holderbaum v US* 589 F.Supp. 107 (DC Colo 1984)

to what the complaint is. Furthermore, the Petitioner brings this complain [sic] to the court upon section 7602 which is based on the Respondent being a person; yet, the Petitioner levels his complaint against a legal fiction which requires a section 7609(f) petition. Mr. Ford cannot comply with this order lest he commit fraud against himself. He cannot attest to being a legal fiction nor may he reassert himself with the "mark of the beast" (Exhibits 11 and 12). Compliance with this order would also compel the Respondent to join with the Petitioner in his fraudulent behavior.

This court is ordering Mr. Ford to comply with an obsolete summons form and fill out a form that bears no control numbers. "Once a summons issued by the Internal Revenue Service is challenged it is the duty of the district court to scrutinize the summons carefully to determine whether it seeks information relevant to a legitimate investigative purpose."[10] Mr. Ford has challenged these two summonses. The court has failed to *scrutinize* them for legal efficacy. The counsel for Mr. Pryor alludes that IRS agents use form 2039 all the time. This might be part of the problem. (Exhibit 25 page 8 lines 17 thru 19). Courts are not enforcing proper Administrative procedures "An abuse of discretion occurs if a decision is against logic and effect of facts and circumstances of a case;

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[10] *US v Cooper &Lybrand* 413 F. Supp. 942 (US District Court Dis. Colo. 1975)

even when an appellate court reviews, however, it reviews application of law to facts de novo."[11]

Wherefore:

The Movant H. Clark Ford III, a natural living man, prays that wisdom will prevail to rise up the rule of law once again requesting the court to:

1. *Set aside and hold null and void the action at the above styled cause for a lack of jurisdiction upon a Rule 60(b)(4).*
2. *Declare all aspects of Order issued April 23 2007 to be of no effect upon a Rule 60(b)(3) due to fraud perpetrated upon this court by the petitioner.*

Respectfully Submitted

/s/ H. Clark Ford III
H. Clark Ford III
Po Box 424
Hagerman New Mexico 88232
505 317-4648

I, H. Clark Ford III a natural living man, do here by attest and affirm that a full and accurate copy of this *Motion for relief for void order* . . . has been sent to Cynthia L. Weisman Asst US Attorney at PO box 607

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[11] *Garcia v Jeantette* 134 N.M. 776 (App.Ct 2003)

Albuquerque New Mexico 88107 – Her last known address.

/s/ H. Clark Ford III _____Date

On May ___ 2007

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs. NO. 07-00016 JH

H. Clark Ford III,

Defendant.

TRANSCRIPT OF PROCEEDINGS
June 7, 2007

BEFORE: THE HONORABLE JUDITH C. HERRERA
United States District Judge

APPEARANCES

For the Plaintiff:

Cynthia L. Weisman
Assistant United States Attorney
P.O. Box 607
Albuquerque, NM 87103

For the Defendant:

H Clark Ford III
P. O. Box 424
Hagerman, NM 88232
(505) 317-4648

PAUL BACA
OFFICIAL COURT REPORTER
(505) 348-2228

[2] THE COURT: Please be seated.

All right. We are on the record in U.S.A. vs. Ford, that is 0716.

Could I have appearances, please?

MS. WEISMAN: Your Honor, Cynthia Weisman, Assistant U.S. Attorney. With me is Ginger Ray, IRS Revenue Officer. She is here in lieu of IRS Revenue Officer Mike Pryor who couldn't make it to this hearing.

THE COURT: All right. Mr. Ford.

MR. FORD: Yes, ma'am.

THE COURT: All right. We are here on the government's motion for – well, we are here on the show cause order. Did you want to proceed, Ms. Weisman?

MS. WEISMAN: Your Honor, we already had a first hearing in this matter. The first petition to enforce two IRS summons was filed in March, and we had a show cause hearing April 19th. At that time Mr. Ford was ordered to appear before the IRS revenue officer in May to provide the testimony and the documents that had been summoned. He did appear, but he did not provide any requested testimony or documents. So we filed a second petition to enforce, that is document number nine on May 3rd. Attached to that is the IRS revenue officer's declaration to affirm that he has not received any of the testimony or documents that are necessary or relevant [3] to the

investigation and the reason for issuing the summons in the first place. And he has not made a referral for criminal prosecution. So that is why we are here today is on the second show cause hearing, because to date we have no cooperation from Mr. Ford for the summons information.

THE COURT: All right. Thank you, Ms. Weisman.

MR. FORD: Your Honor, I have some exhibits I need to enter for review, but I don't want to scratch up the furniture. Would this be offensive if I set my files –

THE COURT: What exactly are you assembling, Mr. Ford? I understood that you were going to prepare something to show some exhibits. That is not what you are doing?

MR. FORD: These are exhibits that I would like to present to the Court.

The other thing I would like to question is this is a show cause hearing, and am I having also my motion for –

THE COURT: I denied your motion, I denied it this morning. Your motion for relief from void order?

MR. FORD: Yes, ma'am.

THE COURT: I issued a memorandum opinion this morning denying your motion.

MR. FORD: Without a hearing?

THE COURT: I denied it. I ruled on it based on the pleadings. Basically you have already had a hearing, and I ruled on all the legal issues that you have raised, and so [4] basically what you asked for was reconsideration, and I made my decision based on the written submissions and I denied your motion.

MR. FORD: May I have a transcript, sir?

COURT REPORTER: Yes, sir.

THE COURT: You can make arrangements for a transcript after the hearing.

MR. FORD: Okay.

THE COURT: All right. We are here on an order to show cause, and I want to know why you violated my order to you that you appear to the IRS agent and provide both documents and testimony. Why did you disobey my order? That is what I want to talk about today, Mr. Ford.

MR. FORD: Well, I appeared.

THE COURT: I ordered you to appear and I ordered you to provide testimony and documents, and you appeared but you did not provide testimony and documents. So why did you disobey my order?

MR. FORD: I asked Mr. Pryor why the order was written as it was saying that I more or less agreed with the petition, the first petition. He then

told me that I wasn't there to ask him questions, and said if I didn't want to answer any questions, if I don't want to answer his questions, to leave. I don't know why the IRS tells people that we are willing to answer any questions you have and be treated that [5] way.

THE COURT: Well, I am sure I will hear from the government in a moment.

MR. FORD: But I mean, I wasn't even aware that my motion had been denied until just now.

THE COURT: Well, I denied it about two hours ago, and you will be provided with a copy.

MR. FORD: How could I get a copy? I was not at home. I live 220 miles from here.

THE COURT: We will get you a copy.

MR. FORD: I also want to make notice that I was not given personal service as your order stipulated. I was given notice of this hearing by mail. Your order said that I should have gotten personal service, so.

THE COURT: Personal service of what?

MR. FORD: Of the order, your order said that I was supposed to get personal service to show here, and it makes me think that possibly the Attorney General, I mean the U.S. Attorney was hoping maybe I would lose track of the order and not show up, I don't know.

THE COURT: And what is that relevant to?

MR. FORD: Well, it's relevant to the fact that I think they want me to go to jail.

THE COURT: Well, all right. Back to my question, why did you not obey my order to provide the IRS agent with [6] documentation and testimony, and I guess you said you went?

MR. FORD: Yes, I went, and what I do not understand is that the second petition says the same thing as the first petition, it's as if I haven't even filed any returns. The government or the petitioner makes out that I have never sent in a return. They can't come up with any sections out of Title 26 that say that I must file a 1040. On the transcripts Ms. Weisman came up here and she said, well, he hasn't filed any 1040s. But that is not what the petition says. The petition says I haven't filed any returns, which is not true. I have filed returns and I have entered them on the court record.

THE COURT: Well, you have filed something, but you have not filed returns.

MR. FORD: The returns – well, would I be able to bring forth my 2005 return that is written the same as all the other returns for your review? They are written – in asking the district, the director, it is my understanding that I don't have any liability here.

THE COURT: I think that is what the IRS was trying to determine, I think that is why the IRS was trying to get you to first meet with them, and

then trying to get you to provide documentation and testimony, because they were trying to determine what your tax liability is.

MR. FORD: Well, that is contradictive, ma'am, [7] because in paragraph nine of the first petition they seem to know what the liability is.

The other problem that we have is that we have established that by Mr. Pryor's own task and [tacit] admission, that there is no liability, because I have a right under Section 6203 to demand for assessment. And I sent him a demand for assessment on May 31st of last year, and he didn't respond. I sent him a notice of default on July 19th. Three weeks later he comes forth and issues me an administrative summons after he, on the 19th he calculated and then admitted that there was no assessments.

Congress has allowed the citizen a right to demand for assessment under CFR 623 [sic], which asks for an individual assessment for each year by the assessment officer that's appointed under oath and affirmation. If an Internal Revenue agent is preparing to summons somebody into his house for questioning, he must already have at hand the assessments, and he didn't send those assessments to me. The transcript from April 19th said that Mr. Pryor had sent me assessments. No, I sent him a notice of default that he had not sent me assessments.

And then on September 6th I sent him an offer, acceptance for value for an offer of proof. He got that

shortly thereafter, and by the 25th he was also in default on that.

[8] I asked him offer proof if he had authority in order to issue a Summons 2039, which has been ruled unauthorized since 1984. Those are in my memos. So basically the Court is enforcing a summons that has been ruled unauthorized by the Congress, and then carried on by the regular Proclamation 8462.

He received my notice of default on my first, my first offer of acceptance, he received a default notice, notice of dishonor by the 25th, which was one day before I was supposed to appear.

And basically by enforcing the summons we are saying that I need to go in there, and I have to put down a Social Security number, and I don't know what number to put down because I have redeemed myself from that number for the last eight years. Am I supposed to put that down on the one that I have sworn to in affidavit form to not only Mr. Pryor, but nine other agencies throughout the IRS that I, number one, my name is not written in capital letters, and number two, I don't have a Social Security number [sic].

Basically, the Court is ordering me to commit fraud against my own affidavit. What number am I supposed to put down there when I go into his office? And how am I supposed to develop these, these kind of records if it has not been presented to me over the last eight years that I am supposed to keep records.

[9] Basically, I go in there, I am not going to have any records to produce because I haven't been keeping records. There is no authority that has told me that I am supposed to keep records over the last eight years, eight, nine years. Am I supposed to fabricate those also?

THE COURT: I ordered you to go in, take whatever documents you have and provide testimony to the IRS. That is what you were ordered to do, you didn't comply with all of the requirements of my order, and here we are.

Anything else before I hear from the government?

MR. FORD: The only thing I could say is there is no relevancy to this summons. The primary reason that the IRS itself is in statutory default in all the years at bar here, because they would not respond to me in affidavit form, and basically what this Court is saying is that the government does not have to respond to the people. In other words, it doesn't matter what I say, the 1040 in itself, there is nothing in Title 26 that says the 1040 is the form that I am supposed to file. As a matter of fact, we filed it, we go through the OMB number, it doesn't – it relates to somebody from the Virgin Islands. There is no OMB number on Form 433A, and there is no OMB number on Form 33B.

Title 44 of 1746 – no, 32, 1235, I believe it is, requires that a person have an OMB number on a paper that he is to fill out. Does this Court not have a

duty to protect me [10] under the Paperwork Reduction Act? How can I fill that out? I don't know where the authority comes from.

THE COURT: Well, I will hear from the government. Ms. Weisman.

MS. WEISMAN: It's clear from the Court's memorandum opinion order Docket 18 that was entered this morning that all of these arguments have been raised previously, the court has already ruled on them. I was looking back at my notes from the first hearing, the OMB number is a red herring. Mr. Pryor did send transcripts of the assessments to Mr. Ford of tax assessments. He does have a Social Security number. He tried to get it revoked. The IRS has full authority.

This morning's order is very clear that the Court is aware that the IRS has acted properly throughout, the summons were issued properly, etc.

What happened, at the first hearing Mr. Ford was ordered to appear before Mr. Pryor on May 2nd to provide testimony and documents. He did appear but he refused to answer any questions. He started quizzing Mr. Pryor about exactly who writes the orders, and Mr. Pryor stopped him and instructed him that he was here to answer Mr. Pryor's questions about his ability to pay taxes and about income for non-filed tax returns, and if he was not going to answer Mr. Pryor's questions, then he could leave, and Mr. Ford said all right, then I will leave, and he did so. So, obviously, the [11] IRS has still not been

able to obtain any responsive information from this gentleman.

He mentioned his 2005, what he is referring to is his tax return. The Court is aware that what he is referring to is his tax returns are in the record, he has already attached them to his filings, the motion the Court ruled on this morning, so at this point we feel like we have exhausted all of our administrative and other remedies up to this point in time, and since he is here we have deputy U.S. marshals present in the courtroom. We are asking instead of issuing a bench warrant at a later time to track him down, he be taken into custody, which was part of the Court's order for today's hearing. We did actually try to accomplish personal service and our process server was not able to find Mr. Ford to personally serve him in Hagerman, New Mexico prior to today. But it was clear that he knew to be here by his presence.

The Court's orders have reached him, and he has filed a number of pleadings on his own that he submitted to the jurisdiction of the Court.

So we're seeking at this point that he be taken into custody under an immediate bench warrant until such time that he cooperates by providing the testimony and providing the documents that the IRS is seeking.

THE COURT: Anything else, Mr. Ford?

MR. FORD: Yes, ma'am. I would like to say something [12] else. That was quite a rapid fire thing, but I still maintain my special appearance. Might [sic] motions, as long as motions remain in questioning the jurisdiction of the Court, I don't lose my argument of in persona. Everything that I have done here is questioning jurisdiction. I am not making any motions to, I haven't succumbed to the jurisdiction of this Court as a counter complaint, or any kind of, any kind of sanctions or anything else. My motions have been limited to my limited special appearance.

THE COURT: All right. Well, you have made motions, you have made jurisdictional arguments. Those were addressed at the first hearing we had. I determined then that the Court has jurisdiction over you. I rejected the legal arguments you made at the last hearing, you essentially re-argued the same issues again by submitting your motion for reconsideration. Your arguments are not legally valid arguments. Your arguments have been made by other people in other cases, and they have been uniformly rejected. People that you have relied upon or that you have discussed about having made similar arguments are people who have been jailed for violating federal law. You have made numerous arguments that have no legal merit. We talked about this last time. I ordered you, nevertheless, to appear before the IRS on May 2nd, I ordered you to appear at the IRS and meet with Mr. Pryor, and I ordered you to provide documents, I ordered you [13] to provide testimony. You didn't do it, and here you are again making the

same unsupported legal arguments again. So again, I will say it again, the Court has jurisdiction over you, the IRS has properly applied the tax laws. The tax laws that you have challenged are valid laws. You have been ordered to comply with them, and you chose not to do so. So I am granting the order to show cause, and I am going to ask that the marshals take you into custody until such time as you choose to comply with my orders.

The marshals are here, and so you will be taken into custody. All right.

All right. Anything further?

MS. WEISMAN: Thank you, Your Honor.

THE COURT: We will be in recess.

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[14] REPORTER'S CERTIFICATE

I, PAUL BACA, a court reporter for the United States, do hereby certify that I reported the foregoing case in stenographic shorthand and transcribed, or had the same transcribed under my supervision and direction, the foregoing matter and that the same is a true and correct record of the proceedings had at the time and place.

I FURTHER CERTIFY that I am neither employed by nor related to any of the parties or attorneys in this case, and that I have no interest whatsoever in the final disposition of this case in any court.

WITNESS MY HAND this 14th day of June, 2007.

Official Court Reporter

U.S. District Court
District of New Mexico – Version 3.2.2
(Albuquerque)
CIVIL DOCKET FOR CASE #: 1:07-mc-00016-JCH
Internal Use Only

United States of America et al
v. Ford

Date Filed:
03/12/2007

Assigned to: District Judge
Judith C. Herrera

Date Terminated:
03/24/2008

Case in other court:
Tenth Circuit Court of Appeals,
07-02162

Petitioner

United States of America

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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Petitioner

Internal Revenue Service

represented by **Cynthia L. Weisman**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Respondent

H Clark Ford, III

represented by **H Clark Ford, III**
P. O. Box 424
Hagerman, NM 88232
PRO SE

Date Filed	#	Docket Text
02/11/2009	76	ORDER of USCA. Mr. Ford's objections are overruled. The $8,000 monetary sanction is now due and payable to the Internal Revenue Service. In addition, the filing restrictions set forth in this court's December 19, 2008 opinion are in effect as to 70 (pg) (Entered: 02/11/2009)
02/11/2009	75	MANDATE of USCA granting the Internal Revenue Service's motion for sanctions in the amount of $8,000.00. The Judgment of the US District in each case is affirmed as to 70 Notice of Appeal filed by H Clark Ford, III (Attachments: # 1 Opinion, # 2 Judgment)(pg) (Entered: 02/11/2009)
06/09/2008	74	LETTER to H. Clark Ford III re filing requirements 70 (pg) (Entered: 06/09/2008)

06/09/2008	73	Transmitted Record on Appeal to US Court of Appeals re 70 (pg) (Entered: 06/09/2008)
05/22/2008	72	USCA Appeal Fees received $ 455 receipt number 3798 re 70 Notice of Appeal filed by H Clark Ford, III cc: USCA (pg) (Entered: 05/22/2008)
05/09/2008	71	Transmission of Notice of Appeal and Docket Sheet to US Court of Appeals 70 (pg) (Entered: 05/09/2008)
05/07/2008	70	NOTICE OF APPEAL by H Clark Ford, III. (vv) (Entered: 05/07/2008)
03/24/2008	69	ORDER by Judge Judith C. Herrera granting 65 Motion to Dismiss, dismissing case with prejudice. (baw) (Entered: 03/24/2008)
03/21/2008	68	JUDICIAL NOTICE of Change of Address and request for setting by H Clark Ford, 111 (vv) (Entered: 03/21/2008)
03/13/2008	67	RESPONSE to Motion re 65 MOTION to Dismiss filed by H Clark Ford, III. (vv) (Entered: 03/14/2008)
03/11/2008	66	MANDATE of USCA – H. Clark Ford's application for a writ of habeas corpus is dismissed as improperly made to the Tenth Circuit Court of Appeals and is ordered transferred to the US District for consideration. The Judgment of

		the US District Court is affirmed as to 25 Notice of Appeal filed by H Clark Ford, III (Attachments: # 1 Opinion # 2 Judgment)(pg) cc: AT & BH (Entered: 03/11/2008)
02/29/2008	65	MOTION to Dismiss this action w/prejudice with all parties bearing their own costs by United States of America, Internal Revenue Service. (Weisman, Cynthia) Modified on 3/3/2008 to add text(pmr). (Entered: 02/29/2008)
02/27/2008	64	STIPULATED ORDER by Judge James O. Browning granting 63 Motion for Release (vv) (Entered: 02/27/2008)
02/27/2008	63	Joint MOTION for Release of Respondent by United States of America, Internal Revenue Service. (Weisman, Cynthia) Modified on 2/27/2008 to modify text [vv] (Entered: 02/27/2008)
02/15/2008	62	RESPONSE to Motion re 58 MOTION for Default Judgment as to filed by United States of America. (Weisman, Cynthia) (Entered: 02/15/2008)
02/15/2008	61	STATUS REPORT *(Amended February Monthly Report)* by United States of America (Weisman, Cynthia) (Entered: 02/15/2008)
02/08/2008	60	MONTHLY STATUS REPORT by United States of America

		(Weisman, Cynthia) Modified on 2/11/2008 to correct text(pmr). (Entered: 02/08/2008)
01/30/2008	59	NOTICE of request for setting by H Clark Ford, III re 58 MOTION for Default Judgment (vv) (Entered: 01/30/2008)
01/30/2008	58	MOTION for Default Judgment by H Clark Ford, III. (vv) (Entered: 01/30/2008)
01/14/2008	57	NOTICE of request for setting by H Clark Ford, III (vv) (Entered: 01/14/2008)
01/07/2008	56	STATUS REPORT *(January, 2008)* by United States of America (Weisman, Cynthia) (Entered: 01/07/2008)
12/28/2007	55	MOTION to Strike the notice of errata 49 by H Clark Ford, III. (sl) (Entered: 12/28/2007)
12/26/2007	54	ORDER of USCA – Pursuant to 28 U.S.C. Sec. 1826(b), we deny the request for release pending appeal and grant the request for an expedited appeal 25 (pg) (Entered: 12/26/2007)
12/06/2007	53	STATUS REPORT *(Monthly)* by United States of America (Weisman, Cynthia) (Entered: 12/06/2007)

11/08/2007	52	RESPONSE to 50 Order for bail filed by H Clark Ford, III. (vv) (Entered: 11/08/2007)
11/06/2007	51	STATUS REPORT *(Monthly)* by United States of America (Weisman, Cynthia) (Entered: 11/06/2007)
11/02/2007	50	ORDER by Judge Judith C. Herrera re: Release on Bond. (baw) (Entered: 11/02/2007)
10/15/2007	49	ERRATA re 48 Brief *Regarding Continued Detention* by United States of America, Internal Revenue Service (Attachments: # 1 Exhibit A – 3rd declaration M. Pryor # 2 Exhibit Al news articles # 3 Exhibit A2 contempt order # 4 Exhibit A3 brief)(Weisman, Cynthia) (Entered: 10/15/2007)
10/12/2007	48	BRIEF re 45 Order *for Briefing Regarding Continued Detention* by United States of America (Weisman, Cynthia) (Entered: 10/12/2007)
10/11/2007	47	RESPONSE to 45 Order for Briefing filed by H Clark Ford; III. (vv) (Entered: 10/11/2007)
10/02/2007	46	STATUS REPORT *(Monthly)* by United States of America (Weisman, Cynthia) (Entered: 10/02/2007)

09/21/2007	45	ORDER for Briefing by Judge Judith C. Herrera (baw) (Entered: 09/21/2007)
09/21/2007	44	ORDER by Judge Judith C. Herrera Deconsolidating Cases 07mc16 and 07cv836 (baw) (Entered: 09/21/2007)
09/19/2007	43	ORDER of Consolidation by Judge Bruce D. Black consolidating this case with 07cv836 (mr) Modified on 9/25/2007 to correct text (pmr). (Entered: 09/19/2007)
09/05/2007	42	STATUS REPORT *September 2007* by United States of America, Internal Revenue Service (Weisman, Cynthia) (Entered: 09/05/2007)
08/10/2007	39	JUDICIAL NOTICE by H Clark Ford, III (vv) (Entered: 08/10/2007)
08/06/2007	37	ORDER regarding status reports by Judge Judith C. Herrera. (baw) (Entered: 08/06/2007)
08/03/2007	38	Certified and Transmitted Record on Appeal to US Court of Appeals re 25 Notice of Appeal (pg) (Entered: 08/06/2007)
08/03/2007	36	Eighth Weekly Status Letter by Cynthia L. Weisman to Judge Herrera (vv) (Entered: 08/06/2007)
08/03/2007	35	Seventh Weekly Status Letter by Cynthia L. Weisman to Judge Herrera (vv) (Entered: 08/06/2007)

08/03/2007	34	Fifth Weekly Status Letter by Cynthia L. Weisman to Judge Herrera (vv) (Entered: 08/06/2007)
07/30/2007	33	TRANSCRIPT of Show Cause Proceedings held on 06/07/2007 before Judge Herrera, re 25 (pg) (Entered: 08/02/2007)
07/30/2007	32	USCA Appeal Fees received $ 455 receipt number ALB00266 re 25 Notice of Appeal filed by H Clark Ford, III (Attachments: # 1 receipt)(pg) (Entered: 08/02/2007)
07/18/2007	31	USCA Appeal Fees received $ 455 receipt number ALB000266 re 25 Notice of Appeal filed by H Clark Ford, III (pg) (Entered: 08/02/2007)
07/10/2007	30	USCA Case Number 07-2162 for 25 Notice of Appeal filed by H Clark Ford, III. (pg) (Entered: 07/16/2007)
07/09/2007	29	Clerk's Minutes for proceedings held before Judge Judith C. Herrera: Hearing on continuing detention held on 7/9/2007. (Court Reporter Paul Baca.) (ljs) (Entered: 07/09/2007)
07/03/2007	28	NOTICE of Receipt by US Marshals Office re 27 Notice of Hearing (vv) (Entered: 07/03/2007)
07/02/2007	27	NOTICE of Hearing:Hearing set for 7/9/2007 01:30 PM in Albuquerque – 580 Brazos Courtroom

		before District Judge Judith C. Herrera. (baw) (Entered: 07/02/2007)
06/29/2007	26	Transmission of Notice of Appeal and Docket Sheet to US Court of Appeals re 25 Notice of Appeal (mjr) (Entered: 06/29/2007)
06/29/2007	25	NOTICE OF APPEAL as to *18* Memorandum Opinion and Order and *19* Order by H Clark Ford, III. Filing fee not paid.(mjr) (Entered: 06/29/2007)
06/28/2007	24	JUDICIAL NOTICE of exception to orders by H Clark Ford, III (vv) (Entered: 06/28/2007)
06/21/2007	23	Status Letter by Cynthia Weisman dated 6/21/07 (vv) (Entered: 06/22/2007)
06/14/2007	22	Status Letter by Cynthia Weisman dated 6/14/07 (vv) (Entered: 06/22/2007)
06/13/2007	21	Clerk's Minutes for proceedings held before Judge Judith C. Herrera: Show Cause Hearing on Second Petition held on 6/07/2007 (Court Reporter Paul Baca.) (ljs) (Entered: 06/13/2007)
06/07/2007	20	NOTICE of receipt of certified copy of Memorandum Opinion and Order by US Marshall re 19 Order (vv) (Entered: 06/07/2007)

06/07/2007	19	ORDER by Judge Judith C. Herrera GRANTING Petition to Enforce IRS Summons filed by United States of America 9 (baw) (Entered: 06/07/2007)
06/07/2007	18	MEMORANDUM OPINION AND ORDER by Judge Judith C. Herrera denying Motion for Relief from Void Order 8 (baw) (Entered: 06/07/2007)
05/29/2007	17	REPLY to Response to Motion re 8 MOTION for Order filed by H Clark Ford, III. (vv) (Entered: 05/30/2007)
05/25/2007	16	NOTICE of Hearing on Respondent's Request for Setting 15 , filed 5/23/07. Motion Hearing set for 6/7/2007 11:00 AM in Albuquerque – 580 Brazos Courtroom before District Judge Judith C. Herrera. Total time allotted for this hearing is 20 minutes. [THIS IS A TEXT ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (ljs) (Entered: 05/25/2007)
05/23/2007	15	MOTION (REQUEST) for Hearing by H Clark Ford, III. (dmw) (Entered: 05/24/2007)
05/15/2007	14	NOTICE of Hearing: Show Cause Hearing on Government's Second Petition to Enforce IRS Summons set for 6/7/2007 11:00 AM in Albuquerque – 580 Brazos

		Courtroom before District Judge Judith C. Herrera. (ljs) (Entered: 05/15/2007)
05/15/2007	13	RESPONSE to Motion re 8 MOTION for Order filed by United States of America. (Weisman, Cynthia) (Entered: 05/15/2007)
05/10/2007	12	ANSWER to Petition to Enforce IRS Summons by H Clark Ford, III. (vv) (Entered: 05/10/2007)
05/09/2007	11	AMENDED ORDER by Judge Judith C. Herrera re 10 Notice (Other) filed by H Clark Ford, III (bw) (Entered: 05/09/2007)
05/07/2007	10	JUDICIAL NOTICE of Fraudulent and Inappropriate Behavior by H Clark Ford, III (vv) (Entered: 05/07/2007)
05/03/2007	9	Second PETITION to Enforce IRS Summons, filed by United States of America. (Attachments: # 1 Exhibit B Second Declaration of Mike Pryor)(Weisman, Cynthia) (Entered: 05/03/2007)
05/01/2007	8	MOTION for relief from void order based on Rule 60 and for lack of jurisdiction by H Clark Ford, III. (Attachments: # 1 Exhibit # 2 Exhibit # 3 Exhibit # 4 Exhibit # 5 Exhibit)(vv) (Entered: 05/01/2007)
04/30/2007		TRANSCRIPT of Proceedings held on 4/19/2007 before Judge Judith

		C. Herrera. Court Reporter: Paul Baca. (pmr) (Entered: 04/30/2007)
04/23/2007	7	ORDER by Judge Judith C. Herrera re 1 Petition to Enforce IRS Summons. (ljs) (Entered: 04/23/2007)
04/19/2007	6	Clerk's Minutes for proceedings held before Judge Judith C. Herrera: Show Cause Hearing held on 4/19/2007. (Court Reporter Paul Baca.) (ljs) (Entered: 04/19/2007)
04/16/2007	5	ANSWER to Petition to Enforce IRS Summons by H Clark Ford, III. (Attachments: # 1 Exhibit # 2 Exhibit # 3 Exhibit # 4 Exhibit # 5 Exhibit # 6 Exhibit # 7 Exhibit # 8 Exhibit # 9 Exhibit # 10 Exhibit # 11 Exhibit # 12 Exhibit # 13 Exhibit # 14 Exhibit # 15 Exhibit # 16 Exhibit # 17 Exhibit # 18 Exhibit # 19 Exhibit # 20 Exhibit # 21 Exhibit # 22 Exhibit # 23 Exhibit # 24 Exhibit # 25 Exhibit # 26 Exhibit # 27 Exhibit # 28 Exhibit)(vv) (Entered: 04/16/2007)
03/28/2007	4	MINUTE ORDER by Judge Judith C. Herrera re 2 Order to Show Cause Show Cause Hearing set for 4/5/2007 is hereby vacated and reset for **4/19/2007 09:30 AM** in Albuquerque – 580 Brazos Courtroom before District Judge Judith C. Herrera. [THIS IS

		A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.](ljs) (Entered: 03/28/2007)
03/21/2007	3	NOTICE by United States of America, Internal Revenue Service of filing *of Return of Service* (Attachments: # 1 Exhibit A Return of Service)(Weisman, Cynthia) (Entered: 03/21/2007)
03/14/2007	2	ORDER TO SHOW CAUSE by Judge Judith C. Herrera. Show Cause Hearing set for 4/5/2007 09:30 AM in Albuquerque – 580 Brazos Courtroom before District Judge Judith C. Herrera. (ljs) (Entered: 03/14/2007)
03/12/2007		Judge Judith C. Herrera assigned. (nm) (Entered: 03/12/2007)
03/12/2007	1	First PETITION to Enforce IRS Summons, filed by United States of America. (Attachments: # 1 Exhibit A – Declaration of IRS Revenue Officer Mike Pryor # 2 Exhibit A1 IRS Summons # 3 Exhibit A2 IRS Summons # 4 Exhibit A3 Service of Summons # 5 Exhibit A4 Service of Summons # 6 Exhibit AS Collection Information Statement (433A) # 7 Exhibit A6 USAO letter 2/7/07)(Weisman, Cynthia) (Entered: 03/12/2007)

U.S. District Court
District of New Mexico – Version 3.2.2
(Albuquerque)
CIVIL DOCKET FOR CASE #:
1:07-mc-00836-JCH-LFG
Internal Use Only

Ford v. Pryor

Assigned to: District Judge Judith C. Herrera

Referred to: Magistrate Judge Lorenzo F. Garcia

Case in other court: Tenth Circuit Court of Appeals, 08-02034

Cause: 28:1651 Petition for Writ of Mandamus

Date Filed: 08/27/2007

Date Terminated: 01/08/2008

Jury Demand: None

Nature of Suit: 890 Other Statutory Actions

Jurisdiction: Federal Question

Plaintiff

H Clark Ford, III

represented by **H Clark Ford, III**
40161051
415 Roma NW
Albuquerque, NM 87102
PRO SE

V.

Defendant

Michael J Pryor
IRS Agent

represented by **Andrew Sobotka**
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Andrew.L.Sobotka@USDOJ.GOV
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

United States of America,
Internal Revenue Service

represented by **Andrew Sobotka**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Respondent

Attorney Andrew L Sobotka
Respondent on Motion for Sanctions

Respondent

Department of Justice
Respondent on Motion for Sanctions

Date Filed	#	Docket Text
03/04/2009	36	Mail Returned as Undeliverable. Mail sent to H. Clark Ford, III re 34 (bap) (Entered: 03/04/2009)
02/23/2009	35	Mail Returned as Undeliverable "Attempted Not Known" re 32. Mail sent to H. Clark Ford, III at 415 Roma NW, Albuquerque, NM 87102. (bap) (Entered: 02/24/2009)
02/20/2009	34	Mail Returned Doc#33 as Undeliverable. Mail sent to H. Clark Ford III. (Called Metropolitan Detention Center H. Clark Ford III not in custody.) (ciy). Doc#32 and Doc#33 also mailed in 07mc16 to H. Clark Ford III, P. O. Box 424, Hagerman, NM 88232-0000. Modified to add text on 2/23/2009 (ciy). (Entered: 02/20/2009)
02/10/2009	33	ORDER of USCA Mr. Mr. Ford's objections are overruled. The $8,000 monetary sanction is now due and payable to the Internal Revenue Service. In addition, the filing restrictions set forth in this court's December 19, 2008 opinion are in effect 27 (pg) (Entered: 02/10/2009)
02/10/2009	32	MANDATE of USCA granting the Internal Revenue Service's motion for sanctions in the amount of $8,000.00. The Judgment of the US District in each case is

affirmed 27 Notice of Appeal filed by H Clark Ford, III (Attachments: # 1 Opinion, # 2 Judgment)(pg) (Entered: 02/10/2009)

03/04/2008	31	Transmitted Record on Appeal to US Court of Appeals re 27 (pg) (Entered: 03/04/2008)
02/14/2008	30	USCA Appeal Fees received $ 455 receipt number 2024 re 27 Notice of Appeal filed by H Clark Ford, III (pg) (Entered: 02/22/2008)
02/07/2008	29	USCA Case Number 08-2034 for 27 Notice of Appeal filed by H Clark Ford, III. (pg) (Entered: 02/07/2008)
02/07/2008	28	Transmission of Notice of Appeal and Docket Sheet to US Court of Appeals re 27 Notice of Appeal (pg) (Entered: 02/07/2008)
02/04/2008	27	NOTICE OF APPEAL by H. Clark Ford III, Pro se as to 26 Order Dismissing Case (fees not paid) (pg) Additional attachment(s) added on 2/7/2008 (Gutierrez, Pam). (Entered: 02/05/2008)
01/08/2008	26	ORDER by Judge Judith C. Herrera granting Respondents Motion for Summary Judgment (Doc. 14), denying Applicant's Motion for a Hearing (Doc. 21) and Motion to Amend (Doc. 25) and dismissing case with prejudice. (baw) (Entered: 01/08/2008)

12/19/2007	25	MOTION to Amend/Correct 1 Complaint by H Clark Ford, III. (ln) (Entered: 12/19/2007)
12/13/2007	24	ORDER by Judge Judith C. Herrera denying 9 Motion for Recusal. (baw) (Entered: 12/13/2007)
12/12/2007	23	ORDER DENYING PLAINTIFF'S MOTIONS by Judge Lorenzo F. Garcia. Motion for Sanctions 15; Motion for Hearing 16 (clm) (Entered: 12/12/2007)
12/11/2007	22	ORDER by Judge Judith C. Herrera Referring Motion for Sanctions filed by H Clark Ford, III 15 (baw) (Entered: 12/11/2007)
12/10/2007	21	MOTION for Hearing 19 Response to Motion to Dismiss by H Clark Ford, III. (ln) (Entered: 12/10/2007)
12/07/2007	20	REPLY to Response to Motion re 15 MOTION for Sanctions, 16 MOTION for Hearing re 15 MOTION for Sanctions filed by H Clark Ford, III. (ln) (Entered: 12/07/2007)
12/06/2007	19	RESPONSE to Motion re 14 Amended MOTION to Dismiss *and Alternative Motion for Summary Judgment – (To Correct Style) filed by H Clark Ford, 111. (ln) (Entered: 12/06/2007)*

12/05/2007	18	JUDICIAL NOTICE OF AFFIDAVIT by H Clark Ford, III (ln) (Entered: 12/05/2007)
11/28/2007	17	RESPONSE in Opposition re 15 MOTION for Sanctions, 16 MOTION for Hearing re 15 MOTION for Sanctions filed by Andrew L Sobotka, Department of Justice. (Sobotka, Andrew) (Entered: 11/28/2007)
11/28/2007	16	MOTION for Hearing re 15 MOTION for Sanctions by H Clark Ford, III. (ln) (Entered: 11/28/2007)
11/28/2007	15	MOTION for Sanctions by H Clark Ford, III. (ln) (Entered: 11/28/2007)
11/26/2007	14	Amended MOTION to Dismiss *and Alternative Motion for Summary Judgment – (To Correct Style)* by United States of America, Internal Revenue Service, Michael J Pryor. (Attachments: # 1 Exhibit 1 – Declaration of Michael J. Pryor # 2 Exhibit 2 – Certificates of Assessments and Payments)(Sobotka, Andrew) (Entered: 11/26/2007)
11/26/2007	13	NOTICE of service and deficiency by H Clark Ford, III (ln) (Entered: 11/26/2007)
11/21/2007	12	Assignment to Administrative Track and Temporary Stay of

		Discovery by Judge Lorenzo F. Garcia (clm) (Entered: 11/21/2007)
11/09/2007	11	**[CASE PARTICIPANTS]** MOTION to Dismiss *and Alternative Motion for Summary Judgment* by United States of America, Internal Revenue Service, Michael J Pryor. (Attachments: # 1 Exhibit Declaration of Revenue Officer Michael J. Pryor # 2 Exhibit Certificates of Assessments and Payments 1996-2000)(Sobotka, Andrew) (Entered: 11/09/2007)
11/09/2007	10	NOTICE of Appearance by Andrew Sobotka on behalf of United States of America, Internal Revenue Service, Michael J Pryor (Sobotka, Andrew) (Entered: 11/09/2007)
10/10/2007	9	MOTION for Recusal by H Clark Ford, III. (ln) (Entered: 10/10/2007)
09/21/2007	8	ORDER by Judge Judith C. Herrera Deconsolidating cases 07mc16 and 07cv836 (baw) (Entered: 09/21/2007)
09/19/2007	7	ORDER of Consolidation by Judge Bruce D. Black consolidating case with lead case 07mc16, Judge Judith C. Herrera assigned and Judge Bruce D. Black no longer assigned. (mr) (Entered: 09/19/2007)

09/14/2007	6	SUMMONS Returned Executed Michael J Pryor served on 9/10/2007, answer due 11/9/2007. (ln) (Entered: 09/17/2007)
09/13/2007	5	ORDER REASSIGNING CASE. Case reassigned to Judge Bruce D. Black for all further proceedings. Judge Carmen E. Garza no longer assigned to case. (ln) (Entered: 09/13/2007)
09/12/2007	4	NOTICE of Refusal to Proceed Before US Magistrate Judge by H Clark Ford, III (ln) (Entered: 09/12/2007)
08/27/2007	3	Letter re: Consent to Proceed before a US Magistrate Judge (nm) (Entered: 08/27/2007)
08/27/2007	2	Filing fee: $ 350.00, receipt number 912 (nm) (Entered: 08/27/2007)
08/27/2007		Judge Carmen E. Garza and Lorenzo F. Garcia assigned. (nm) (Entered: 08/27/2007)
08/27/2007	1	COMPLAINT (Application for Writ of Mandamus) against Michael J Pryor (Filing fee $ 350.00.), filed by H Clark Ford, III.(nm) (Entered: 08/27/2007)

In the United States District Court,

District of New Mexico

United States of America and
Internal Revenue Service

Petitioner

V

H. Clark Ford III

Respondent

 # Mic. # 07-16 J.H.

(Filed May 29, 2007)

Reply to Response

Reply to Response to Motion for Relief from Void Order

Now Comes H. Clark Ford III, a natural living man making a special appearance for fear of his liberty, a reply to response to motion for relief from void order.

I. Introduction

A. Local Rules

The Movant is regretful that he has inadvertently violated a number of local rules. He prays that the court be lenient in regards to this motion (doc 8). Points of law would be lost if the court were to deny this motion out right. The Movant is grateful for the information he received from the response to this motion. He would like to present the following exhibits in court in accordance with rule 10.6:

Refusal of summons..... (doc 5 exhibit 20)

2005 Return ..... (doc. 5 exhibit 9)

Demand for assessment ..... (doc. 5 exhibit 12)

Affidavit none pro tunc..... (doc. 5 exhibit 18)

First conational notice
of acceptance [sic].....(doc. 5 exhibit 15A)

Wells Fargo Bank
no social security number..... (doc. 5 exhibit 22)

B. Judicial Notice

The non-moving party misunderstands the Movant's motive for filing a judicial notice. The judicial notice at docket 9 is nothing more then [sic] a notice. Its purpose was to bring notice to the court. There was an inconstancy incorporated with in the order. It alluded to the Movant being in favor of the "first petition to enforce summons." The order gave a connotation that Ms. Weisman had contacted the Movant seeking his opinion of the petition. The prevailing party in any hearing writes the order after which the court simply signs. The Movant found it behooving to give notice that the court had signed an order, which consisted of two false presentations:

1. Ms. Wieseman [sic] had contacted Mr. Ford.
2. The first petition sat well with Mr. Ford.

These two statements are false. The amended order (doc 11) does not reflect any such falsities. The notice was not a motion. It did not ask the court to do

anything except to recognize that there was an inconsistency within the order itself.

Though Mr. Ford is not a practicing attorney, he knows that attorneys on opposing sides treat each other with a certain form of protocol. As the prevailing side writes the order, the counsel contacts the other side and asks their opinion about the order. The Prevailing party then enters the other party's opinion of the matter. Mr. Ford found it to be necessary to make a point of this falsity lest it be inconsistent with his motion at hand. Mr. Ford did not seek relief by issuing a notice. He is seeking relief by entering this motion upon Rules 60(b) (3) and (4)

C. Corum Nobis

The motion entered at docket # 8 constitutes a motion to reconsider. It is a perfectly legitimate motion based upon a Rule 60. Simply because the non-moving party deems this motion frivolous, is not enough for the court to deny the motion. The non-moving party has failed to address any of the points of law or mitigating circumstances at hand. This motion is purporting that the order issued on April 23 is void. There is a jurisdictional problem under a Rule 60(b) (4) and there is a problem of fraud upon the court under 60(b) (3). The non-moving party complains that the Movant is not arguing any new points that he covered at hearing (doc.6). The motion at docket 8 filed on May 1 is based upon Rules 60(b) (3) and (4). They pertain to

problems with the order that have to do with "fraud" and "void". Rule 60(b)(2) will cover for new evidence.

II. Jurisdiction over the Body

A. The Petitioner has influenced this court through fraud in acquiring Jurisdiction over the body.

This court shall not be used as a conduit for which to delegate authority to Michael J. Pryor #84-10124 due to his failure to follow proper administrative steps. The Petitioner has purposely and fraudulently written Mr. Ford's name in capital letters presenting this natural living man as a legal fiction. H. CLARK FORD III is a legal fiction, which allows this to be a court of equity. This is because it can be assumed that the Movant has some form of contract with the federal government. If this is a court of equity, the real legal entity, which has appeared out of fear for his liberty has no rights. Michael J. Pryor #84-10124 has deliberately filed this complaint against the Movant in this manner to deprive Mr. Ford of his rights in the proceeding. Petitioner has committed fraud upon this court under Rule 60 (b)(3) for the court to acquire jurisdiction over the body of a one H. Clark Ford III, a natural living man. This way the court may assume that the legal fiction that Michael J. Pryor #84-10124 has created has some form of contract with the federal government. According to Title 26 New Mexico is not with in the federal district:

1. ***The term state includes the District of Columbia, the Commonwealth of Puerto Rico; the Virgin Islands, Guam and American, Samoa***

2. ***The term United States includes the commonwealth of Puerto Rico; the Virgin Island; Guam and American Samoa.***[1]

The court has accepted jurisdiction over the body of a one H. Clark Ford III, a natural living man even though he does not reside in a federal area or in the district. This constitutes "jurisdictional fraud." "Where party intentionally misleads or deceives court at identity of litigant and permits court to waist its time on trial of action against non existing party such conduct constitutes fraud upon the court."[2] The Petitioner purposely referred to the Movant as a legal fiction in his complaint so that it could be assumed that Mr. Ford had a contract with the federal government regardless of where he resides. The ruse worked influence on this court, which culminated in an abusive judgment The order issued at docket #7 compels Mr. Ford to comply with a summons that has been unauthorized for the past twenty-three years. "A district court abuses its discretion when it misapprehends the law or the decision is not supported by

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[1] 26 USCA 3121(e)

[2] *Halloran v Blue and White Liberty* Cab 92 NW 2d. 794

substantial evidence."[3] This is a direct attack on a void order.

B. The Social Security Number

The non-moving party may not reinstate Mr. Ford with the "Mark"

When the Movant was but a toddler, there lived a tyrant in China. To consolidate his power he forbid the people to bear arms. During his "grand leap program", he tried to take away people's names and replace those names with numbers. He failed to take away the people's names but he did give them numbers, before he killed them by the numbers . . .

At hearing April 19 2007, counsel for the Petitioner stated that Movant had a social security number (doc. 8 exhibit 25 page 8 lines 22-24.) Mr. Ford must file this motion in order to traverse this statement. Mr. Ford, not being keen or wily about courtroom tactics, should have objected. The Movant is objecting now.

On March 17th 2006 H. Clark Ford III, the natural living man, in support of his revocation eight years prior (doc 5 exhibit 22.) swore out a nunc pro tunc affidavit (doc.5 exhibit 18) Mr. Ford sent this affidavit to nine different agencies through out the IRS system. He also sent this notice to Michael J. Pryor # 84-10124. All nine agencies plus the Petitioner failed to rebut this affidavit (doc 5 exhibit 24). After having

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[3] Brook v North west Corp 136 N.M 599 (App. Ct. 2004)

failed to traverse, any of the sworn statements, Mr. Pryor not only files a petition writing Mr. Ford's name in capital letters but also sends his counsel to the bench declaring that Mr. Ford reassert the "mark". Ms. Wiesman is counsel and her statement is hearsay – it is also contrary to her client's own tacit admission. The fact that Mr. Pryor and his superiors have tacitly agreed that Mr. Ford does not have a social security number, constitutes false pretense that he purport's the opposite in court. "It is fraud upon the court where the impartial functions of the court have been directly corrupted."[4] This jurisdiction is based upon fraud perpetrated upon this court by Mr. Pryor himself. Mr. Pryor does this intentionally to give the appearance that this is an action in equity. The Movant has provided to the court record two exhibits that give rise to the notion that Mr. Ford is without a social security number. There is the letter of revocation to Human Services in 1998 (doc. 5 exhibit 22); then we have the unanswered nunc pro tunc affidavit in 2006 not to mention all of the returns that restate the revocation. We also have an affirmation from the Wells Fargo Bank. This bank is taking money out of Mr. Ford's trust account and there is no Social security number to complete the conversion (doc. 5 exhibit 22). The non-moving party cannot traverse these facts. Mr. Ford does not have a social security number.

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[4] *US v Huck* 281 F 3d. 1336 (10CA 2002)

The Petitioner is more cunning then Mao Tse Tung. Instead of taking Mr. Ford's name away, he writes it in "all caps". This way the name sounds the same when spoken so nobody knows the difference. Mr. Pryor preserves equity because the "legal fiction" can be just about anything that is into a contract. To secure jurisdiction we get Ms. Wiesman to declare that Mr. Ford has a social security number. Now we have instant equity thru fraud. Movant would like to edit the book of revelation:

> ***He forced everyone small and great rich and poor free and slave to receive a social security number on his right hand and on his forehead. Therefore, that no one could buy or sell unless he had the social security number, which is the name of the beast or the number of his name.***[5]

Mr. Ford revoked his contract with Human Services in 1998; he reasserted himself last year with his nunc pro tunc affidavit. Movant has reasserted himself in every return he has filed since 1997. The order compelling the enforcement of summons (doc 7) is abusive causing both Mr. Pryor and Mr. Ford to commit fraud against the affidavit nunc pro tunc. "A district court abuses its discretion when it misapprehends the law or the decision is not supported by substantial evidence."[6] The Petitioner has not

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[5] Revelation 13.18

[6] Brook v North west Corp. 136 N M 599 (App Ct. 2004)

brought fourth any evidence to the contrary about the social security number. To comply with the order at docket #7, Mr. Ford would have to supply a social security number. The court detains the body thru the "mark of the beast" and the "mark" is acquired thru fraud.

III. Fraud upon the Court

Petitioner Pryor Has Committed Fraud upon the Court to Acquire Authority for Which He Does not Originally Possess.

The Movant is fearful of the law. He fears the law as much as he fears God because he believes that the law comes from God. In Title 26, he is especially concerned with section 7203 and does not care to offend or traverse in any manner or form. It is because of the previously mentioned law Mr. Ford concludes that he is required "to file a return". He has filed returns even though these returns are not satisfactory to the Petitioner. He also knows that a court order has the power of law and he must obey. Any compliance with an order to enforce IRS summons would commit H. Clark Ford III, a natural living man, to reassert himself with the Social Security Number on form 433-A. This is in conflict with his freedom of conscience and would constitute fraud against him. He would not know what number he is to put on the form. Furthermore, any order that issues to enforce and implement summons 2039 goes

in the face of congressional intent to outlaw this summons for use by the IRS.[7] It also orders Mr. Ford to fill out a form, which lacks a control number. Mr. Ford is at a quandary; he does not know what number to apply to form 433-A Fraud upon the court has resulted in an "abuse of discretion". The Petitioner Michael J. Pryor agent # 84-10124 has committed fraud upon this court in various different ways lending itself to an abuse of discretion.

1. Michael J. Pryor agent # 84-10124 has conveyed to the court that Mr. Ford had not filed any returns; in fact he has filed returns. This complaint is not about filing improper returns – is about not filing.

2. Michael J. Pryor agent # 84-10124 has conveyed to the court that he has delegated authority to examine records and books after twice dishonoring Mr. Ford's good faith co-national acceptance for value.

3. Michael J. Pryor agent # 84-10124 has purported and asserted to this court that Mr. Ford has a tax liability after dishonoring Mr. Ford's demand for summary assessment for all tax periods before the court.

4. Michael J. Pryor agent # 84-10124 has summonsed the Movant to this court as a legal fiction and asserting that he has a Social Security Number after agreeing thru his silence to Mr. Ford's nunc pro tunc affidavit.

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[7] See Rev Proc 84-62 1984-37 I.R.B 35

5. Michael J. Pryor agent # 84-10124 has deceived the court in believing that summons form 2039 is authorized for IRS use.

6. Michael J. Pryor agent # 84-10124 has presented to this court that form 433-A need not contain a control number to have legal efficacy.

7. Michael J. Pryor agent # 84-10124 has Presenting [sic] to this court that summons form 2039 need not bear a control number to have legal efficacy.

8. Michael J. Pryor agent # 84-10124 presents to this court that these matters were not concluded; for each tax period at bar Mr. Pryor's superiors and on a few occasions he himself have acquiesced thru silence that "returns have been filed".

H. Clark Ford III, the natural living man, failed at hearing (doc.6) to overcome the fraud, which the non-moving party had put forth. Due to his lack of courtroom experience, he was unable to traverse this fraud upon the court. The court needs a second chance to reconsider its own decision. "Relief from judgments may be granted on theory that adverse party committed fraud on the court where application for such relief is clearly sustained by adequate proof."[8] The non-moving party on the other hand has no corroborating support for anything that he is asserting. This

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[8] *Hall v Doering* 185 F.R D. 639 (D.Kan. 1999)

cause of action must not continue to move based on Mr. Pryor's subjective thinking alone. "A federal court has no jurisdiction to direct the issuance of a warrant on an information filed, made on information and belief of a federal officer alone . . . "[9] There is simply no evidence supporting the enforcement of these summonses nor is there any authority.

Wherefore:

Movant prays that the motion be granted:

Holding that the order issued on April 23 2007 be null and void.

Holding that this action is without merit and be dismissed with prejudice.

Respectfully Submitted,

/s/ H. Clark Ford III

H. Clark Ford III, special appearance
PO Box 424
Hagerman New Mexico 88230
317-4648

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[9] US v Kennedy 5 F.R.D 110 (D.Colo. 1946)

H. Clark Ford III, the Respondent in the above styled cause does depose and affirm that a full and accurate copy of *Reply to Response to motion* was sent to:

[Cynthia L. WEISMAN
ASST. US ATTORNEY
P.O. BOX 607
ALBUQUERQUE, NM 87103]

On the 25th day of May 2007 by US Postal Service

/s/ H. Clark Ford III

List of Exhibits

Exhibit 1..... *Form 6637*

Exhibit 2..... *Form 6638*

Exhibit 3..... *Form 6639*

[SEAL] **Summons**
Collection Information Statement

In the matter of _____

Internal Revenue Service (*Identify Division*) _____

_____

Industry/Area (*Identify by number or name*) _____

_____

Periods: _____

The Commissioner of Internal Revenue

To: _____

At: _____

You are hereby summoned and required to appear before _____
an Internal Revenue Service (*IRS*) officer, to give testimony and to bring for examination the following information related to the collection of the tax liability of the person identified above for the periods shown:

All documents and records you possess or control regarding assets, liabilities, or accounts held in the taxpayer's name or for the taxpayer's benefit which the taxpayer wholly or partially owns, or in which the taxpayer has a security interest. These records and documents include but are not limited to: all bank statements, checkbooks, canceled checks, savings account passbooks, records or certificates of deposit for the period:

From _____ To _____

Also include all current vehicle registration certificates, deeds or contracts regarding real property, stocks and bonds, accounts, notes and judgments receivable, and all current life or health insurance policies.

IRS will use this information to prepare a Collection Information Statement. We have attached a blank statement to guide you in producing the necessary documents and records.

Do not write in this space

Business address and telephone number of IRS officer before whom you are to appear:

_____

Place and time for appearance: At _____

_____

on the _____ day of _____, _____ at ___ o'clock ___m.
(*year*)

Issued under authority of the Internal Revenue Code this _____ day of _____, _____.
(*year*)

_____ _____
Signature of issuing officer Title

_____ _____
Signature of approving officer (*if applicable*) Title

[LOGO] **IRS**

Department of the Treasury
Internal Revenue Service

www.irs.gov

Form 6637 (Rev. 4-2005)
Catalog Number 25000Q

Original –
to be kept by IRS

[SEAL] **Summons**
Income Tax Return

In the matter of _____

Internal Revenue Service (*Identify Division*) _____

_____

Industry/Area (*Identify by number or name*) _____

_____

Periods: _____

The Commissioner of Internal Revenue

To: _____

At: _____

You are hereby summoned and required to appear before _____
an Internal Revenue Service (*IRS*) officer, to give testimony and to bring for examination the following information related to the tax liability of the person identified above for the periods shown:

All documents and records you possess or control about income you received for the years:

_____

These records and documents include, but are not limited to: Forms W-2 (*Wage and Tax Statement*), Forms 1099 for interest and dividend income, employee earnings statements, and records of deposit with banks or other financial institutions.

Also include all other books, records, documents, and receipts for income from, but not limited to, the following sources: wages, salaries, tips, fees, commissions, interest, rents, royalties, alimony, state or local tax refunds, annuities, life insurance policies, endowment contracts, pensions, estates, trusts, discharge of indebtedness, distributive shares of partnership income, business income, gains from dealings in property, and any other compensation for services (*including receipt of property other than money*). Include all documents and records about any income you assigned to any other Person or entity.

IRS will use this information to prepare a federal income tax return for the following year(s) when you didn't file a return:

_____.

We have attached a blank return to guide you in producing the necessary documents and records.

Do not write in this space

Business address and telephone number of IRS officer before whom you are to appear:

Place and time for appearance: At _____

on the _____ day of _____, _____ at ___ o'clock ___m.
(*year*)

Issued under authority of the Internal Revenue Code this _____ day of _____, _____.
(*year*)

Signature of issuing officer | Title

Signature of approving officer (*if applicable*) | Title

[LOGO] **IRS**

Department of the Treasury
Internal Revenue Service

www.irs.gov

Form 6638 (Rev. 4-2005)
Catalog Number 61828W

Original –
to be kept by IRS

Financial Records

[SEAL] **Summons**

In the matter of _____

Internal Revenue Service (*Identify Division*) _____

_____

(*Identify by number or name*) _____

_____

Periods: _____

The Commissioner of Internal Revenue

To: _____

At: _____

You are hereby summoned and required to appear before _____ an officer of the Internal Revenue Service to give testimony and to bring with you and to produce for examination the following books, records, papers, and other data relating to the tax liability or for the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws concerning the taxpayer identified above for the periods shown.

Copies of documents and records that you possess or control that concern banking matters of the taxpayer named above, as described in the subparagraphs checked below for the periods shown:

☐ Bank signature cards in effect of (*Entity Name*)

_____

from _____ to _____

☐ Corporate resolutions in effect of (*Entity Name*) _____

from _____ to _____

☐ Bank statements of (*Entity Name*) _____

from _____ to _____

☐ (*Number*) _____ Cancelled checks issued by taxpayer for (*Entity Name*) _____ _____ during each month of the period from _____ to _____

☐ Loan applications, agreements, and related records (*including corporate financial statements*) submitted by, entered into by, or in effect regarding (*Entity Name*) _____ from _____ to _____

Do not write in this space

Business address and telephone number of IRS officer before whom you are to appear:

_____

Place and time for appearance at _____

_____

on the _____ day of _____, _____ at ___ o'clock ___m.
(*year*)

Issued under authority of the Internal Revenue Code this _____ day of _____, _____.
(*year*)

Signature of issuing officer	Title
Signature of approving officer (*if applicable*)	Title

[LOGO] **IRS**

Department of the Treasury
Internal Revenue Service

www.irs.ustreas.gov

Form 6639 (Rev. 7-2000)
Catalog Number 25004I

Original –
to be kept by IRS

In The US District Court
District of New Mexico

United States and
Internal Revenue Service

V 1:07 MC 16 JH

H. Clark Ford III

Judicial Notice of Exception to Orders

(Filed Jun. 28, 2007)

Now comes H. Clark Ford III, a natural living man making a special appearance for the sake of his liberty, to file a notice of exception to orders at dockets 18 and 19.

Cause for Notice

Mr. Ford entered a motion to set aside a void order on May 1 2007 (Doc.8). The court denied this order with out a hearing, denying Mr. Ford his right to be heard (doc.18). Mr. Ford had requested a setting (doc.15) and the court granted Mr. Ford 20 minutes set for Thursday at 1100hr (doc.16). The court stated in its entry at docket 18:

> **Having considered the parties arguments, the record and the applicable law the court will deny the motion.**

The court will not state that a hearing took place even though the court had granted Mr. Ford a setting. It could be argued that a hearing was not necessary because Mr. Ford had failed to bring forth new evidence, however, Mr. Ford did not file under Rule 60(b)(2); He filed under subsections (3) and (4). Nevertheless the court granted a setting and then arbitrarily denied the motion on the pleadings. Also, there is an inconsistency at docket 19 where the court states:

> **The court, having considered the petition, Mr. Ford's answers and arguments and the testimony of IRS officer Mike Pryor and Mr. Ford, makes the following findings:**

It is to be noted that Mr. Pryor was not at the hearing "to enforce IRS summons" on June 7 2007. It is also to be noted that through out [sic] these proceedings, Mr. Pryor has made no testimony what so ever [sic]. He has only made declarations with no statements in regards to his authority to issue a 2039 summons form. All matters brought before the judge in the court room have been by way of hearsay information from the US Attorney. By way of exhibits A. B. C and D, it is established that Agent Pryor was not in the court room on June 7, 2007. This is contrary to what the court stipulates in its order.

Respectfully Submitted

/s/ H. Clark Ford III

H. Clark Ford III, 40161051
Special Appearances
415 Roma NW
Albuquerque
New Mexico 87102

Certificate of Service

I, H. Clark Ford III, certify that a clear and accurate copy of **Judicial Notice of Exception to Orders** was sent to:

Cynthia Weiseman Asst. US Attorney
US Justice Department
PO Box 607
Albuquerque New Mexico 87103

On 28TH JUNE 2007

By ✓ US Mail

____ Other _____

/s/ H. Clark Ford III

H. Clark Ford III

Date

[SEAL]

U.S. Department of Justice

United States Attorney
District of New Mexico

Post Office Box 607 *505/346-7274*
Albuquerque, New
Mexico 87103 *FAX 505/346-7205*

June 7, 2007

Via Hand Delivery to the US Marshal Service, for delivery to Mr. Ford at RCC

To: H. Clark Ford III

Re: *USA and IRS v. H. Clark Ford III.* USDC D.N.M. Misc. No. 07-16 JH

Dear Mr. Ford:

Enclosed is a copy of the Court's Order from the hearing today. Also enclosed is a copy of the Court's Memorandum Opinion and Order that was entered this morning, before the hearing. IRS Revenue Officer Wray and I met with you immediately after the hearing today, and you refused to provide complete information. When you decide that you want to provide complete financial information, please contact me and I will arrange a meeting with an IRS Revenue Officer. For your assistance, enclosed are: copies of the two IRS Summonses at issue; a copy of this office's letter that preceded litigation (the letter lists the information sought in the Summonses in a more easily readable format); and a Form 433A, Collection Information Statement, indicating the information

that the IRS Revenue Officer will ask you. I will report to the Court on a weekly basis (as ordered) that we have not heard from you, until I have been contacted by you or on your behalf that you will answer questions posed by the IRS Revenue Officer and that you will supply the information requested in the IRS Summonses.

Sincerely,

LARRY GOMEZ
Acting United States Attorney

/s/ Cynthia L. Weisman
CYNTHIA L. WEISMAN
Assistant U. S. Attorney

CLW/cw
Enclosures: Doc. 19, Memorandum Opinion and Order
Doc. 18, Memorandum Opinion and Order
Doc. 1, Exhibits Al and A2, IRS Summons
Doc. 1, Exhibit A6, letter from this office
Doc. 1, Exhibit A5, Form 433A Collection Information Statement

cc w/ encl: Mike Pryor, IRS Revenue Officer
Ginger Wray, IRS Revenue Officer

Ford Affidavit

I, H. Clark Ford III, being of sound mind and not under any form of duress on this [27] day of June 2007, do hereby affirm and depose the following statements:

1. On May 1 2007, the Affiant entered on the court docket to the above styled cause a motion to set aside void order based upon Rules 60 (b)(3) and (4).

2. Subsequently the Petitioner responded to this motion (doc.13) and the Affiant replied (doc17).

3. Affiant requested a setting for his motion on May 23 2007 (doc.15)

4. The court granted the Affiant 20 Minutes for June 7 2007 at 1100hr. (doc.16).

5. The Affiant arrived on time to defend his motion.

6. Upon his arrival, he discovered that the court had already denied his motion.

7. The court surprised Mr. Ford.

8. The court did not allow a hearing for Affiant's motion to set aside.

9. The court then proceeded to hear the **Second Petition to Enforce IRS Summons**.

10. IRS agent Michael J. Pryor # 84-10124 was not present in the courtroom during the procession to enforce summons.

11. After the court found Mr. Ford in civil contempt, Mr. Ford did not find Mr. Pryor in the prisoner quarters of the courthouse either.

12. The US attorney and an IRS agent spoke to him thru a screen to ask him some questions.

13. The US Attorney was Cynthia Wieseman and the IRS agent was an Officer Ginger Wray.

14. Agent Michael J Pryor was not in attendance.

15. Affiant did not see hear or touch Agent Michael J. Pryor # 84-10124 on June 7, 2007.

16. Affiant knows what Mr. Pryor looks like; he has seen him on two previous occasions.

On this [27] day of June 2007, the Affiant H. Clark Ford III swears and affirms that the above 16 statements are true to the best of his belief and knowledge under the penalty of perjury.

/s/ H. Clark Ford III

In The County of Bernaillo [sic]
State of New Mexico

I William Vecchiolla, **witnesses H. Clark Ford III a natural living man identified to me sign his name to the above affidavit on the** 27 **day of June 2007.**

My commission expires on 6/18/2010

Seal

Affidavit of Luis Veloz

I Luis A Veloz being of sound mind and not being under any outside influence of physical or mental stress of being under any form of duress on the 18th day of June 2007 do depose and attest to the following statements.

1. I Luis A. Veloz was present at the hearing U.S.A vs. H. Clark Ford III, on June 7 2007.
2. H. Clark Ford III was before the Honorable Judith C. Herrera United States District Judge.
3. H. Clark Ford III did not swear nor did he testify to anything before the Honorable Judge Judith C. Herrera.
4. Internal Revenue Officer Michael J. Pryor agent # 8410124 was not present at the June 7 2007 hearing U.S.A vs. H.Clark Ford III.

Under penalty of Perjury I, Luis A. Veloz on this 18th day of June 2007, do hereby swear and depose that the four statements are true to the best of my knowledge and belief.

Luis A. Veloz

/s/ Luis A. Veloz Date 6-18-07

Notary Public

I Kathy Jones, a Notary Public for the State of New Mexico, do affirm that Luis A. Veloz a natural person known to me, signed this **Affidavit** on the 18th day

of June,2007 in the County of Chaves, State of New Mexico.

/s/ Kathy Jones

[SEAL]

My commission expires on July 21, 2009

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW MEXICO
ALBUQUERQUE DIVISION

In Re H. Clark Ford III, Applicant, v. Agent Michael J. Pryor, Revenue Officer, Internal Revenue Service, Respondent.	)))))))))	Civil No. 07-0836- JCH-LFG (Filed Nov. 9, 2007)

Entry of Appearance and Request for Notice By Attorney for Revenue Agent Michael Pryor and United States of America

In order to assure notification of all Court settings in this matter, please enter the appearance of the below-named individual as attorney for Internal Revenue Officer Michael J. Pryor and the United States of America in the above proceeding and forward notices of settings and hearings, pleadings and papers filed in this action to the attorney at the following address:

Andrew L. Sobotka
Attorney, Tax Division
Department of Justice
717 N. Harwood, Suite 400
Dallas, Texas 75201
(214) 880-9736 (direct)
(214) 880-9741 (fax)

This entry of appearance and request for service is in addition to, and not a substitute for, the requirements of Rules 4 and 45 of the Federal Rules of Civil Procedure or any other rules regarding service of process, service of pleadings and other notices as may be required by law.

LARRY GOMEZ
United States Attorney

/s/ Andrew Sobotka

Andrew L. Sobotka
Attorney, Tax Division
State Bar No. 18819900
Department of Justice
717 N. Harwood, Suite 400
Dallas, Texas 75201
(214) 880-9736
(214) 880-9741 (Fax)
Attorney for Revenue Officer
Pryor and the United States

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing Entry of Appearance and Request for Notice has been made on the 5th day of November 9, 2007, by mailing a copy thereof to:

H. Clark Ford III
40161051
415 Roma NW
Albuquerque, NM 87201
Applicant.

/s/ Andrew Sobotka
Andrew L. Sobotka

In The US District Court

District of New Mexico

En Re H. Clark Ford III
Applicant

V

Agent Michael J. Pryor
 # 84-10124
Respondent

Civ 07-0836 JCH-LFG

(Filed Nov. 26, 2007)

Judicial Notice of Service and Deficiency

Now Comes H. Clark Ford III, pro se Applicant in the above styled cause, to file a **Judicial Notice of Service**. This is to give notice that the Applicant received notice of the Respondent's answer to application on November 14. The time for the Applicant to respond to answer begins to toll on November 14. In addition, Notice is given that the Respondent to this cause addressed his answer to the above styled cause to the wrong court. Applicant addressed these issues to the United States District Court District of New Mexico. Mr. Ford did not file his Application for Mandamus in bankruptcy court; he is not a judgment debtor.

Respectfully Submitted,

H. Clark Ford III, Pro Se
40161051
415 Roma NW
Albuquerque, New Mexico 87102

Certificate of Service

I H. Clark Ford III, The Applicant in the above styled cause here by affirm on this 26 day of November that a clear and accurate copy of **Notice of Non-Consent** was sent to

Counsel for IRS/Agent Michael J. Pryor # 84-10124
Andrew L Sobotka
State Bar Number 18819900
Department of Justice
717 n. Harwood Suite 400
400 Dallas Texas 75201

The last known address

On the 26 day of November 2007 by the US Postal Service.

/s/ H. Clark Ford III — 11/21/07
H. Clark Ford III — Date

IN THE US DISTRICT COURT
DISTRICT OF NEW MEXICO

H. Clark Ford III
Applicant

v

IRS and Agent Michael J. Pryor # 84-10124
Respondent

CV 07-0836 JCH-LFG

(Filed Dec. 10, 2007)

Request for Setting

1. Type of case – civil Non jury
2. Judge – Honorable Judith C. Herrera
3. Hearing presently set – none
4. Discussion – **Response to Motion to Dismiss upon Rules 12 and 56**.
   a. Did Respondent supply Applicant with the proper information to constitute Record Assessment?
   b. Has applicant preformed a self-assessment for any of the years at bar?
   c. Show cause why Michael J. Pryor should not be held in contempt
5. Estimated total time – 30 Minutes
6. Requested by H. Clark Ford III
7. Other Attorneys or pro se parties need for hearing – none.

8. Anytime the Applicant does not have anything else planed [sic].

Respectfully,

H. Clark Ford III
40161051
415 Roma NW
Albuquerque New Mexico 87102

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

H. Clark Ford III
Applicant

V

IRS and IRS Agent Michael J. Pryor
 # 84-10124
Respondent

#1:07 CV 0836 JCH-LFG
(Filed Dec. 5, 2007)

Judicial Notice of Ford Affidavit

Now Comes H. Clark Ford III, pro se Applicant for the Writ of Mandamus, to file **Judicial Notice of Ford Affidavit** in the above style cause.

Affidavit of H. Clark Ford

On this 3rd day of, December 2007 the Affiant H. Clark Ford III being of a clear mind and not under any form of stress or duress does hereby depose and affirm the following statement:

1. H. Clark Ford is the Affiant.
2. H. Clark Ford III is a natural born living man.
3. H. Clark Ford III is not a "collective entity" and he spells his name as a proper noun.
4. H. Clark Ford III is the Applicant for the Writ of Mandamus in the above styled cause.

5. At no time, has the Affiant H. Clark Ford III given consent to IRS Agent Michael J. Pryor #84-10124 to file form 1040 in his behalf.

6. At no time, has Affiant given consent to anybody to file returns to the Secretary of the United States Treasury or the Directory of International Operations from 1997 to present.

7. Affiant has filed his own returns forms for tax years 1997 thru 2006.

8. Affiant did not perform a self-assessment in any of his returns filed for tax years 1997 thru 2006.

9. Title 26 sanctions these returns at sections 6011 and 6012 6103 6213 and 7203.

10. The Forms that Affiant filed for tax years 1997 thru 2006 are not frivolous; they have been tacitly affirmed by the Director and or the Secretary; Agent Pryor is privy to this.

11. H. Clark Ford III has given this court notice that he fails to waive his right to an Article III judge in theses [sic] matters.

12. The Clerk entered this notice on September 12 2007; entry appears at docket number 4 to the above styled cause.

Under the penalty of perjury, the Affiant H. Clark Ford III on this 3rd day of December 2007 hereby

affirms that the above 12 statements are true to the best of his knowledge and belief.

/s/ H. Clark Ford III

In the State of New Mexico
County of BERNALILLO

I YVETTE SEDILLO Witnessed H. Clark Ford III a person known by be [sic] sign his name to the above affidavit consisting of 12 statements on this 3rd day of December 2007.

/s/ Yvette Sedillo

[SEAL]

My Commission Expires
12-13-2010

Certificate of Service

I H. Clark Ford III, The Applicant in the above styled cause here by affirm on this 4th day of December that a clear and accurate copy of **Response to Motion for Summary Judgment** was sent to

Counsel for IRS/Agent Michael J. Pryor # 84-10124
Andrew L Sobotka
State Bar Number 18819900
Department of Justice
717 n. Harwood Suite 400
400 Dallas Texas 75201

The last known address

On the 3rd day of November 2007 by the US Postal Service.

/s/ H. Clark Ford III 12/3/07

H. Clark Ford III Date

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

UNITED STATES OF AMERICA; INTERNAL REVENUE SERVICE,	)	
Appellee/Petitioner Below	)	
V.	)	**Case No. 07-2162**
H. CLARK FORD, III,	)	
Appellant/Respondent Below	)	

APPLICATION FOR THE GRAND WRIT OF HABEAS CORPUS AND APPEAL – APPELLANT'S BRIEF IN CHIEF

COMES NOW H. Clark Ford III, ***pro se,*** Appellant and Applicant to the above styled cause to make an application for the grand writ of habeas corpus and file this Appeal upon section 2255 of Title 28 of the US Code and for Reversal of The District Court Order entered June 7, 2007. This application also attacks the denial of a motion *coram nobis* based upon 28 USCA 1292(a).

* * *

II. STATEMENT OF RELATED CASES

There are no prior or related appeals of the sort contemplated by 10th Cir. R. 28.2(C)(1). This case stands alone.

III. CAUSE OF ACTION FOR APPLICATION

H. Clark Ford, III is detained of liberty upon a civil contempt allegation. H. Clark Ford, III is detained due to a petition filed through the Internal Revenue Service Agent Michael J. Pryor, # 84-10124. The IRS is urging H. Clark Ford, III's unlawful detention to unlawfully and incorrectly obtain information from H. Clark Ford, III. The U.S. District Court has moved upon Respondent's assertions and, without just cause, imprisoned H. Clark Ford, III indefinitely. H. Clark Ford, III's Affidavit for habeas corpus is attached to this brief at part XI.

IV. JURISDICTIONAL STATEMENT

A. District Court

The Court's Order of June 7, 2007 indicated that it was a final appealable order and that H. Clark Ford, III had sixty (60) days from the date of the Order in which to appeal. The Notice of Appeal was timely filed within the thirty (30) day period provided in the rules and Docketing Statement was timely filed as per the extension of the Court of Appeals.

B. Appellate Court

Also, it is believed without admitting that this Court has jurisdiction pursuant to 15 U.S.C. ss ss 41 and 1291 as an appeal form [sic] a final decision of the United States District Court for the District of New Mexico: specifically from the district court's

Order of Contempt, entered June 7, 2007 (Docket # 19, Vol. 1, Memorandum Opinion and Order and Order Granting Petition to Enforce, dated June 7, 2007). Further, it is believed without admitting that this Court has jurisdiction under 28 U.S.C. 1292(a)(1) and 1294.

C. Filing Dates

Notice of Appeal was filed June 29, 2007. On July 27, 2007, the Deputy Clerk sent a letter to H. Clark Ford, III indicating that he had forty (40) days from July 27, 2007, that date being September 5, 2007, in which to file his appeal. This appeal is timely.

D. Final Order

This appeal and habeas corpus petition is from a final order as indicated by the district court's order of June 7, 2007, Memorandum Opinion and Order, indicating it was a final order that could be appealed directly to this Court.

V. ISSUES PRESENTED ON APPEAL

On June 7, 2007, H. Clark Ford, III was taken into custody in the courtroom of the U.S. District Court, District of New Mexico for contempt of Court. This was done despite the fact that there had been no evidentiary hearing and no clear and convincing evidence of his failure to comply with a court order was presented to the Court, and H. Clark Ford, III's

requests for proof of authority regarding the underlying summonses (to which he had been ordered to comply with) had been ignored.

Relief is hereby sought for there is no other recourse for which to seek. Mr. Ford is imprisoned and has no other way out other than to submit to a void and abusive order for which he can not comply because the IRS has taken the position that he has not filed tax returns, when in fact he has. H. Clark Ford, III is afraid that if he complies with the inappropriate summons, especially one that appears to be for when the taxpayer has not filed a return, the IRS will force him to stipulate that he did not file returns, though in fact he did. Further, relief is sought to keep the IRS from pushing him aside without proving what it is required to prove, but which the district court has chosen not to require. H. Clark Ford, III will further assert that the District Court moves upon unsubstantiated conclusions of fact and fraudulent input from a reckless Internal Revenue Agent.

The Issues presented to the Court are:

1. Did The District Court Abuse Its Discretion In Finding H. Clark Ford, III In Contempt Of Court When There Is No Admissible Evidence And Certainly No Admissible Clear And Convincing Evidence Of Non-Compliance With The District Court's Order?

2. Did The District Court Abuse Its Discretion In Enforcing The Summonses Before Their

Legitimacy And Proof Of Delegated Authority Was Shown After It Was Questioned By H. Clark Ford, III?

3. Did H. Clark Ford, III Substantially Comply with the District Court's Order?

4. Did The District Court Deny H. Clark Ford, III His Due Process Rights?

5. Did The District Court Abuse Its Discretion In Failing To Use The Least Restrictive Means To Obtain The Desired Result?

VI. STATEMENT OF THE CASE

This is an appeal of an Order of Contempt (Vol. 1, Memorandum Opinion and Order, dated June 7, 2007) entered June 7, 2007. Since the entry of this order, H. Clark Ford, III has been imprisoned and deprived of his liberty. This Habeas Corpus and Appeal is sought to highlight the abuse of discretion of the district court and seek his release from this unlawful imprisonment. This action is one to enforce two IRS Summons issued by an IRS agent by the name of Michael ("Mike") Pryor. H. Clark Ford, III has objected to the form of the summonses and to the lack of proof regarding the authority of Mike Pryor to issue the summons, as well as other grounds.

A hearing was held on April 19, 2007 in which there was no testimony presented and no attempt to address the shortcomings in the summonses issued by IRS Agent and interested party Mike Pryor. Nonetheless, H. Clark Ford, III, subsequently and timely

appeared before Mike Pryor in order to answer questions, but Mr. Ford was told to leave if he did not want to be there after he asked one question to Mike Pryor.

A second hearing for "show cause" was held on June 7, 2007. As with the April 19, 2007 hearing, there was no evidence produced by the IRS in support of its motion or petition. Instead, the IRS relied upon a declaration of Mike Pryor, who they purposefully and willfully chose not to bring to the hearing.

The District Court, through a gross mistake that can only be characterized as an abuse of discretion or clear factual error, found that Mike Pryor "testified" in this cause when he was not even at the hearing and that based on his "testimony," H. Clark Ford, III was in contempt of court. The district court relied upon two out of court hearsay declarations as the basis for its opinion, even in the face of clear and controverting statements by H. Clark Ford, III made in person at the hearings in this cause and in pleadings before the Court.

Because of the abuse of discretion of the district court, H. Clark Ford, III has had his liberty taken away without an opportunity to cross-examine the missing person making declarations against him. Because there was no admissible clear and convincing evidence of H. Clark Ford, III's failure to comply with a court order, his continued depravation of liberty is a crime that must be remedied. This appeal followed

the District Court's order imprisoning H. Clark Ford, III.

VII. STATEMENT OF RELEVANT FACTS

H. Clark Ford, III is an individual, who is presently incarcerated at the Regional Correctional Facility in Albuquerque, New Mexico on an Order of civil contempt granted June 7, 2007.

The District Court summoned H. Clark Ford, III on March 12, 2007 to "show cause" why he should not comply with two IRS summonses. He answered the petition making a "special appearance" on April 16, 2007 (Doc. # 5, Vol. 1, Answer to Petition to Enforce IRS Summons by H. Clark Ford, III) (alternative citation: Aplt. App. pp. 20[-]276). Mr. Ford gave oral argument at a hearing held on April 19, 2007. (*See* Doc # 6, Clerk's Minutes). The U.S. District Court then ordered H. Clark For [sic], III to appear before IRS Agent Michael (Mike) Pryor on May 2, 2007. The District Court entered this order on April 23, 2007. (*See* Docket #7, Vol. 1, Order, dated April 23, 2007) (alternative citation: Aplt. App. pp. 277). Mr. Ford did not get notice of the order until April 27, 2007. Mr. Ford flew to Albuquerque to file his Rule 60 Motion and filed it on May 1, 2007 (*See* Docket #8, Vol. 1, Motion for Relief from Void Order Based on Rule 60 and for Lack of Jurisdiction).

H. Clark Ford, III appeared at agent Pryor's office on May 2, 2007 at the appointed time. Mr. Ford asked one question of Mr. Pryor (concerning the

wording in the April 23, 2007 Order) and was told to leave by Agent Pryor.

M. Ford asked for a setting on his Motion (*See* Doc. #15, Motion/Request for Hearing, dated May 23, 2007). Mr. Ford had six issues that he wanted to cover and asked the District Court for one hour of time. (*See id*). The District Court granted the setting for twenty minutes at 11:00 a.m. on June 7, 2007 (*See* Doc. #16, Notice of Hearing, dated May 25, 2007). Notwithstanding the fact that he had been granted an oral argument, the District Court denied the Rule 60 Motion prior to the June 7, 2007 hearing solely on the pleadings (*See* Doc. #18, Vol. 1, Memorandum Opinion and Order, Dated June 7, 2007) (alternative citation: Aplt. App. pp. 302-305). It then, without an evidentiary hearing, granted the second petition to enforce summons and ordered Mr. Ford taken into custody. (*See* Doc. #19, Vol. 1, Order dated June 7, 2007) (alternative citation: Aplt. App. pp. 306-309. Mr. Ford was not allowed or given the opportunity to present his case before being imprisoned. (*See id.*). The Order of the District Court, (*See id.*), erroneously states that Mike Pryor, the IRS agent and interested party, gave testimony at the June 7, 2007 hearing – but in fact he was not even in attendance. Mr. Ford gave exception to the district court's order at Docket 19 because the order sated [sic] that agent prior [sic] was present on June 7, 2007. Mr. Ford asserted the facts that agent Pryor was not in attendance on June 7, 2007 (*See* Doc. #24, Judicial Notice by H. Clark Ford, III, Exhibits A, B, C., filed June 28, 2007)

(alternative citation: Aplt. App. pp. 310-312). The District Court has refused to acknowledge its error and correct the situation and thus, this Appeal and Habeas Corpus is necessary.

VIII. SUMMARY OF THE ARGUMENT

A civil contempt order is warranted only when the movant can demonstrate proof of contempt by clear and convincing evidence; that is "[1] that a valid court order existed, [2] that the defendant had knowledge of the order, and [3] that the defendant disobeyed the order." Elements one and three are in dispute in this matter. The IRS has failed to satisfy the clear and convincing standard of review as to both the underlying justification for the initial order of the district court for H. Clark Ford, III to appear and produce documents and answer questions as well as the alleged disobedience of the district court's Order.

As a result of the district court's abuse of discretion in ruling in the IRS's favor, despite its having failed to adduce any admissible evidence, the Order of Contempt based upon the IRS's "evidence" must be vacated and reversed.

In sum, no evidence of the validity or proof of authority to issue the underlying summonses was brought forth at either hearing in this matter, nor has such evidence been brought forward through sufficiently admissible documentary evidence. Further, there has been no admissible evidence which would demonstrate that H. Clark Ford, III violated the

district court's order. The only evidence brought forward by the IRS was a hearsay declaration, to which H. Clark Ford, III was not allowed to cross examine his accuser or otherwise challenge the hearsay statements. Further, the IRS provided no notice that it was going to rely upon the hearsay statements of its agent, rather than produce the agent for the evidentiary hearing. This further deprived H. Clark Ford, III his due process rights and made defending against the hearsay allegations impossible.

The Contempt Order should be reversed because the District Court:

1. Abused Its Discretion In Finding H. Clark Ford, III In Contempt Of Court When There Is No Admissible Evidence And Certainly No Admissible Clear And Convincing Evidence Of Non-Compliance With The District Court's Order

2. Abused Its Discretion In Enforcing The Summonses Before The Legitimacy And Proof Of Delegated Authority Was Shown After It Was Questioned By H. Clark Ford, III

3. Failed to recognize that H. Clark Ford, III Substantially complied with the Court's Order

4. Denied H. Clark Ford, III His Due Process Rights

5. Abused Its Discretion In Failing To Use The Least Restrictive Means To Obtain The Desired Result

IX. ORAL ARGUMENT

Under 10th Cir. R. 28.2(C)(4), Appellant H. Clark Ford, III states that he does not believe that oral argument will assist the Court in understanding the issues set forth in this Brief, as the law is well settled and the mistakes made at the district court level are so blatant. Nonetheless, H. Clark Ford, III is prepared to conduct oral argument on all matters and would be honored to do so.

X. ARGUMENT

H. Clark Ford, III is currently imprisoned on the basis of a civil contempt order issued by the District Court on June 7, 2007. The elements of civil contempt are: (1) that a valid court order or judgment existed; (2) the defendant had knowledge of the order or judgment; and (3) the defendant disobeyed the order or judgment. *Federal Trade Comm'n v. H.G. Kuykendall, Sr.*, 371 F.3d 745, 757 (10th Cir. 2004) (en banc); *Reliance Insur. Co. v. Mast Constr. Co.*, 159 F.3d 1311, 1315-16 (10th Cir. 1998).

The contempt order in this case should be reversed or vacated for numerous reasons, including that: (1) there was not clear and convincing evidence that H. Clark Ford, III violated the court's order; (2) the District Court relied upon inadmissible hearsay and arguments from the IRS attorneys instead of admissible evidence; (3) the District Court erred in enforcing the IRS summonses before proof of authority to issue summonses and legitimacy of the

documents was provided to H. Clark Ford, III or the court after they were appropriately questioned; (4) H. Clark Ford, III was not allowed his due process rights by the District Court at the hearing on this matter; and (5) H. Clark Ford, III substantially complied with the District Court's order.

A. Standards For Civil Contempt On Review And Below

1. The Standard of Review: On Appeal, Civil Contempt is Reviewed for Abuse of Discretion and Clear Error

This Court reviews a finding of civil contempt under an abuse of discretion standard. *F.T.C. v. Kuykendall,* 371 F.3d 745, 756 (10th Cir. 2004); *Reliance Ins. Co. v. Mast Constr. Co.,* 84 F.3d 372, 375 (10th Cir. 1996). In so doing, *however,* it reviews the district court's conclusions of law *de novo* and any findings of fact for "clear error." *Id.*; *see also John Zink Company v. Zinkco,* 241 F.3d 1256, 1259 (10 Cir. 2001).

Abuse of discretion is established if the district court's adjudication of the contempt proceedings is based upon an error of law or a clearly erroneous finding of fact. *Reliance Ins. Co.,* 84 F.3d at 375-76; *Zinko,* 241 F.3d at 1259. This is because a district court, by definition, abuses its discretion when it makes an error of law or fails to consider the applicable legal standard or the facts upon which the

exercise of its discretionary judgment is based. *Floyd v. Ortiz,* 300 F.3d 1223, 1227 (10th Cir. 2002).

If a "lower court made a clear error of judgment or exceeded the bounds of permissible choice in the circumstances" regarding the admission of evidence, then the district court's admission of evidence is subject to reversal. *United States v. Samaniego,* 187 F.3d 1222, 1223 (10th Cir. 1999). In determining whether the court committed legal error by violating limits on [its contempt] power, [the Court's] review is *de novo.*" *O'Connor v. Midwest Pipe Fabricators, Inc.,* 972 F.2d 1204, 1209 (10th Cir. 1992).

In the present case, the District Court abused its discretion when it failed to correctly apply the long-established clear and convincing standard to the "evidence" adduced by the IRS in the form of a declaration by IRS agent Mr. Mike Pryor which was the only "evidence" of alleged non-compliance with a court order. The declaration was demonstrably insufficient to cross the stringent threshold of clear-and-convincing mandate, even if it were admissible – which is expressly denied. Moreover, H. Clark Ford, III was not allowed to cross examine the IRS agent who made the declaration or otherwise present his proof at what should have been an evidentiary hearing.

2. The Burden of Proof Below: Clear and Convincing Evidence of Contempt

From a factual perspective, the party seeking civil contempt (in this case, the IRS) bears a heavy burden before the district court. Because "[c]ivil contempt is a severe remedy which should be used only when necessary to sustain the authority of the court[,] a contempt order is warranted only when the movant has shown proof of contempt by **clear and convincing evidence**." *T.Y. by Petty v. Board of County Com'rs of County of Shawnee,* 912 F.Supp. 1424, 1427-28 (D.Kan. 1996) (emphasis added) (citing *NLRB v. Shurtenda Steaks, Inc.,* 424 F.2d 192, 194 (10th Cir. 1970) and *Heinold Hog Market, Inc., v. McCoy,* 700 F.2d 611, 614 (10th Cir. 1983)). That is, the movant seeking the sanction of civil contempt "has the burden of proving, by clear and convincing evidence, [1] that a valid court order existed, [2] that the defendant had knowledge of the order, and [3] that the defendant disobeyed the order." *F.T.C.,* 371 F.3d at 756-57 (quoting *Reliance Ins. Co.,* 159 F.3d at 1315).

The clear-and-convincing standard requires that the movant "place in the ultimate fact finder an abiding conviction that the truth of its factual contentions are "highly probable." This would be true, of course, only if the material it offered instantly tilted the evidentiary scales in the affirmative when weighed against the evidence . . . offered in opposition." *Colorado v. New Mexico,* 467 U.S. 310, 316

(1984) (citing C. McCormick, Law of Evidence § 320, p. 679 (1954) and McBaine, Burden of Proof: Degrees of Belief, 32 Calif.L.Rev. 242, 251-254 (1944)).

More recently, this standard has been explained as "that weight of proof which "produces in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established, evidence so clear, direct and weighty and convincing as to enable the fact finder to come to a clear conviction, without hesitancy, of the truth of the precise facts' of the case." *Travelhost, Inc. v. Blandford,* 68 F.3d 958, 961 (5th Cir. 1995) (quoting *In re Medrano,* 956 F.2d 101, 102 (5th Cir. 1992) (quoting *Cruzan by Cruzan v. Director, Missouri Dept. of Health,* 497 U.S. 261, 285 n.11 (1990)) (*see also Levin v. Tiber Holding Corp.,* 277 F.3d 243, 250 (2nd Cir. 2002) ("In the context of civil contempt, the clear and convincing standard requires a quantum of proof adequate to demonstrate a "reasonable certainty' that a violation occurred." (Citation omitted)).

Summarizing these various descriptions, one court noted that "[w]hatever the precise language used it must be taken as settled that the petitioner in a civil contempt proceeding must overcome a heavy burden of proof," *Schauffler for and on Behalf of N.L.R.B. v. Local 1291, Intern. Longshoremen's Ass'n,* 292 F.2d 182, 190 (3rd Cir. 1961) (citation omitted); and therefore, "where there is ground to doubt the wrongfulness of the conduct of the defendant, [he] should not be adjudged in contempt," *id.*

Thus, turning back to the present dispute, the IRS was obliged to produce "evidence so clear, direct and weighty and convincing" of H. Clark Ford, III's having disobeyed the court's order as to create in the mind of the fact finder "a clear conviction, without hesitancy," of the alleged disobedience. *Travelhost,* 68 F.3d at 961. This, however, the IRS utterly failed to do, and the District Court abused its discretion in finding Mr. Ford in Contempt without the required showing.

B. The District Court Abused Its Discretion In Finding H. Clark Ford, III In Contempt Of Court When There Is No Admissible Evidence And Certainly No Admissible Clear And Convincing Evidence Of Non-Compliance With The Court's Order

There is not clear and convincing admissible evidence in the record to support the District Court's conclusion that H. Clark Ford, III failed to comply with the District Court's order of April 23, 2007. (*See* Docket # 7, Volume 1, Order, dated April 23, 2007) (alternative citation: Aplt. App. pp. 277).

Consequently, the District Court abused its discretion in finding H. Clark Ford, III in contempt of court and restraining his liberty and imprisoning him with no just cause.

The entirety of the factual record involving this matter is contained within three sources of evidence:

(1) one hearsay declaration of IRS Agent and interested party, Mike Pryor, (*see* Docket # 9, Ex. 1, Vol. 1, Second Declaration of Mike Pryor, dated May 3, 2007) (alternative citation: Aplt. App. pp. 278 to 280-2); (2) the transcripts of the April 19 and June 7, 2007 hearings before the trial Court (*see* Volume 2 for April 19 Transcript and Volume 3 for June 7, 2007 Transcript) (alternative citation: Aplt. App. pp. 314-323; 324-346); and (3) the Judicial Notice filed by H. Clark Ford, III on May 7, 2007 (*see* Docket # 10, Volume 1, Judicial Notice, filed May 7, 2007) (alternative citation: Aplt. App. pp. 281-283).[1] The closet [sic] thing to "evidence" adduced at the two hearings were the statements of H. Clark Ford, III, as no witnesses were present or called to testify and even Mr. Ford was never sworn under oath. There was no other "evidence", though the District Court references statements and arguments by the IRS's attorney as if they were in fact evidence.

The District Court specifically stated in its Memorandum Opinion and Order, which is the document

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[1] The Record on Appeal was filed as consisting of three (3) volumes. Volume 1 consists of all pleadings in the cause. Volume 2 consists of the Transcript of the April 19, 2007 hearing. Volume 3 consists of the Transcript of the June 7, 2007 hearing. The pages of the volumes were not consecutively numbered, thus, Appellant refers to the Volume number and the title and date of the specific item, if known. An Appendix is being filed and served concurrently with this Brief and, thus, alternate reference locations are being provided after reference to the record volume and document.

from which the appeal stems, that it considered the "**testimony of IRS Officer Mike Pryor and Mr. Ford**. . . ." (Docket # 19, Volume 1, Memorandum Opinion and Order, p. 1, dated June 7, 2007) (alternative citation: Aplt. App. pp. 306-309). Mike Pryor, however, **did not testify at either the April 19 or the June 7, 2007 hearings**. (*see* Vol. 2, Apr. 19 Trans.; Vol. 3 June 7, 2007 Trans.) (alternative citation: Aplt. App. pp. 314 to 323; 324-346). Indeed, Mike Pryor has **never testified** before the court in this matter. (*Id.*) Moreover, Mike Pryor was not even at the hearing before the District Court on June 7, 2007. (*See id*; *see* Docket # 24, Judicial Notice, filed June 28, 2007) (alternative citation: Aplt. App. pp. 310-312). Consequently, the District Court must incorrectly be referring to the hearsay declarations filed by Mike Prior [sic] in this matter as "testimony" as these are the only items to contain any statements whatsoever from Mr. Pryor, the IRS Agent and interested party. Moreover, only his second declaration dealt with the May 2, 2007 exchange (as ordered by the District Court's April 23, 2007 order) and Mr. Ford's compliance with the District Court's order.

The Federal Rules of Evidence define hearsay as "a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." Fed.R.Evid. 801(c). "Hearsay is not admissible except as provided by these rules. . . ." Fed.R.Evid. 802; *see also United States v. Gary*, 999 F.2d 474, 479 (10th Cir. 1993) (stating that "[g]enerally [hearsay

evidence] is not admissible . . . because traditional conditions of admissibility, including that the witness be present at the trial, testify under oath, and be subject to cross-examination, all of which together permit [the trier of fact] to evaluate the reliability and trustworthiness of a statement, are not present." *Id.* (quoting *U.S. v. Cardascia*, 951 F.2d 474, 486 (2nd Cir. 1991)).

These hearsay declarations of Mike Pryor should not have been considered by the District Court because the hearing on June 7, 2007 was a "show cause" evidentiary hearing and because the IRS was required to present "clear and convincing evidence" establishing the alleged contemptuous conduct on the part of H. Clark Ford, III. Of course, Mr. Ford was not aware that the District Court was planning to incorrectly and inappropriately rely upon Mr. Pryor's hearsay statements until after he was found in contempt and the Court issued its June 7, 2007 opinion. Prior to the District Court's June 7, 2007 Opinion, H. Clark Ford, III had no knowledge that the District Court would rely on the declarations by Mr. Pryor in lieu of live testimony and thus, he had no opportunity to object to the "admission" of the hearsay statements or to the District Court's reliance upon them. The IRS, as movant, was required to show, by clear and convincing evidence, that H. Clark Ford, III failed to comply with the court's earlier order. The burden of establishing the failure to comply rested solely on the IRS, which knew the June 7, 2007 hearing was evidentiary in nature.

Notwithstanding that fact, or perhaps because of it, the IRS produced absolutely no admissible evidence in support of its contention that H. Clark Ford, III failed to appear and comply with the court's order. Indeed, the IRS chose not to produce or even bring the one witness of the alleged contemptuous conduct, Mike Pryor, for the hearing, despite his testimony being critical in showing the alleged failure of H. Clark Ford, III to comply with the District Court's order.

This failure to bring Mike Pryor to the hearing on June 7, 2007 where he could be cross-examined by H. Clark Ford, III should be viewed with great concern by this Honorable Court, as it is evidence of an attempt to shield the accusers and allow them to offer inadmissible hearsay "testimony" in the form of declarations and simultaneously deprive H. Clark Ford, III of the ability to cross-examine and face the accusers as permitted by due process. This is especially troubling considering that H. Clark Ford, III specifically identified the areas in which Mr. Pryor's testimony would be sought and why they were important in his Motion for Relief from Void Order, which was essentially a Motion for Reconsideration of the Court's April 23, 2007 Order. (*See* Docket # 8, Vol. 1, Motion for Relief from Void Order, Filed May 1, 2007) (detailing that H. Clark Ford, III believed that Agent Pryor may not have the authority he purported to have and should be questioned as to his motivation, procedure and credentials).

The closest thing to "evidence" offered by the IRS in support of its claim that H. Clark Ford, III did not comply with the court's order was in fact the hearsay statements by Mike Pryor in his Second Declaration. (Docket # 9, Ex. 1, Vol. 1, Second Declaration of Mike Pryor, p. 1, para. 4) (alternative citation: Aplt. App. pp. 278 to 280-2). Which, as specified above, is no evidence, much less admissible clear and convincing evidence. In the hearsay declaration, Mr. Pryor states that Mr. Ford appeared as ordered, but "refused to answer any of my questions about his ability to pay delinquent taxes and his income for non filed tax returns." *Id.* This contrasts directly with H. Clark Ford, III's statements at the "hearing" of this matter and his written statements in pleadings relied upon by the Court that he appeared as ordered by the District Court and simply asked a single question **before being told to leave by Mr. Pryor**. (*see* Vol. 3, June 7, 2007 Trans. P. 4, lines 19-24; p. 6, line 2) (alternative citation: Aplt. App. pp. 324-346); (Docket # 10, Vol. 1, Judicial Notice, filed May 7, 2007, p. 2) (alternative citation: Aplt. App. pp. 281-283) (stating that:

> Respondent, having appeared May 2, 2007 before the Petitioner at 1300 hr in Roswell asked a question about this very matter at which time Michael J. Pryor agent # 84-10124 abruptly showed the Respondent the door. The session did not last much more than thirty seconds. **The Petitioner did not ask the Respondent any questions.** Rather, he informed the Respondent that

> Mr. Ford was there to answer questions not ask them.

(*Id.*) (emphasis added). The difference between Mr. Ford's statements and the hearsay statement by Mike Pryor is critically important in that one would lead to the inability to find contempt and the other might.

It is undisputed that H. Clark Ford appeared before the IRS as ordered to do so. (*see* Docket # 9, Ex. 1, Vol. 1, Second Declaration of Mike Pryor, p. 1, para. 4(alternative citation: Aplt. App. pp. 278 to 280-2); (Docket #19, Vol. 1, Memorandum Opinion and Order, dated June 7, 2007, p. 1, para. 2) (alternative citation: Aplt. App. pp. 306-309). The only evidence that H. Clark Ford, III was asked questions that he refused to answer is in the inadmissible hearsay declaration of Mike Pryor. (*see* Docket # 9, Ex. 1, Vol. 1, Second Declaration of Mike Pryor, p. 1, para. 4) (alternative citation: Aplt. App. pp. 278 to 280-2). There was no other specific information or evidence before the court regarding H. Clark Ford, III's alleged non-compliance with the court's order. H. Clark Ford, III stated that he appeared as ordered, asked a question and was told to leave. (*see* Vol. 3, June 7, 2007 Trans. P. 4, lines 19-24; p. 6, line 2) (alternative citation: Aplt. App. pp. 324-346); (Docket # 10, Vol. 1, Judicial Notice, filed May 7, 2007, p. 2) (alternative citation: Aplt. App. pp. 281).

The District Court erroneously states in its order that it considered "testimony" from Mike Pryor, when the only evidence ever adduced by Mike Pryor, were

his hearsay statements that are not admissible and cannot support an evidentiary ruling of clear and convincing evidence by the District Court. Moreover, even if the District Court had conducted a hearing on June 7, 2007 as it was required to do, it would have been impossible for it to find evidence supporting the IRS's position because Mike Pryor was not even in attendance at the hearing. (*See* Docket # 24, Judicial Notice by H. Clark Ford, III) (alternative citation: Aplt. App. pp. 310-312) [Petitioner's Appendix App.544-563]. Tenth Circuit decisions establish that "[a] finding of fact is 'clearly erroneous' if it is without factual support in the record or if the appellate court, after reviewing all the evidence, is left with a definite and firm conviction that a mistake has been made." *Manning v. United States,* 146 F.3d 808, 812 (10th Cir. 1998) (quoting *Cowles v. Dow Keith Oil & Gas, Inc.,* 752 F.2d 508, 511 (10th Cir. 1985)). This is the case with the District Court's statement that it relied on the "testimony" of Mike Pryor and Mr. Ford.

The District Court's conclusion that H. Clark Ford, III failed to comply with the court's order is not supported by "clear and convincing evidence" in fact, it is not supported by any admissible evidence and is so clearly erroneous and without factual support that it constitutes an abuse of discretion that this Court should remedy. **In the mean time, H. Clark Ford, III remains incarcerated.** [Moreover, the District Court's statement that it relied upon "testimony" that did not occur as the major reason for its decision

constitutes "clear error" requiring a reversal of this matter.}

C. The District Court Abused Its Discretion In Enforcing The Summonses Before Their Legitimacy And Proof Of Delegated Authority Was Shown After It Was Requested By H. Clark Ford, III

H. Clark Ford, III has challenged the authority of Mike Pryor, IRS Agent, with regard to the issuance of the two summons forming the *gravamen* of the government's claims against H. Clark Ford, III. In essence, H. Clark Ford, III is challenging both the underlying summonses as well as the authority of Mike Pryor to issue the summons.

"Once a summons issued by the Internal Revenue Service is challenged, it is the **duty** of the District Court to scrutinize the summons carefully to determine wither it seeks information relevant to a legitimate investigative purpose." *U.S. v. Cooper & Lybrand*, 413 F. Supp. 942 (D Ct. Colo 1975) (emphasis added).

The IRS itself issued a proclamation outlawing the summons used by Mike Pryor in this case for IRS use on September 10, 1984. (*See* Rev. Proc. 84-62, 1984-37 I.R.B. 35, 1984-2 C.B. 526, 1984 WL 260551 (IRS PUB) (published Sept. 10, 1984) (stating that because Rev-Proc. 55-6 (implementing the use of Form 2039) does not reflect current law and practice

of the service it is hereby declared obsolete). Revenue Proclamation 55-6 was the administrative order that gave authority to form the Form 2039, used in this case. *See id.* The District Court Ruled that Rev Proc. 84-62 did not declare summons Form 2039 to be unauthorized when in fact, it was the express purpose of Rev. Proc. 84-62 to replace this Form with three new forms and that the old Form was to be unauthorized for IRS use. *See id.* (*see also* Docket # 17, Vol. 1, Reply by H. Clark Ford, III, dated May 29, 2007, Exhibits A, B, C.) (alternative citation: Aplt. App. pp. 297-301).The District Court's legal conclusion in this regard is reviewed *de novo* by this Court. *O'Connor v. Midwest Pipe Fabricators, Inc.*, 972 F.2d 1204, 1209 (10th Cir. 1992).

Further, upon the face of the summonses at bar, there are no signatures for delegating authority to issue these unauthorized summonses. Even on these obsolete forms, there is a space for the signature of a delegation of authority to show that the agent is legitimate and provide a means for the taxpayer to make sure that everything is being sought in accordance with the law. While only a commissioner or a director can issue an IRS summons or delegate that authority to a revenue agent, the agent must still show his authority on the form issued.

> Such authorization shall be manifested by the signature of the authorizing officer on the face of the original and all copies of the summons or by a statement on the face of the original and all copies of the summons

> signed by the original officer that he or she had prior authorization to issue said summons and stating the name and the title of the official and date of authorization.

1984-37 I.R.B. 12, D.O. No. 4 REV 15, 1984-2 C.B. 467, 1984 WL 37359 (IRS DLO) (published Sept. 10, 1984). Agent Michael J. Pryor # 84-10124 must seek out delegated authority for which to take Mr. Ford's testimony and summons him in. This he has not done. *See id.* at para. (d). Therefore, he has not followed proper administrative steps. "In order to establish that IRS summons has been issued in good faith it must be determined that investigation was pursuant to a legitimate purpose that the information sought was not already in the commissioner's possession and that *the recognized steps recognized by the code have been followed.*" (emphasis added)." *Holderbaum v. U.S.* 589 F. Supp. (107 DC Colo. 1984)

Agent Michael J. Pryor #84-10124 has not followed proper administrative procedures in processing information from the Applicant. "*Commissioner* of the Internal Revenue Service need not meet any standard of probable cause to attain enforcement of administrative summonses but must show that investigation will be conducted pursuant to a legitimate purpose that the information is in his possession and that administrative steps have been followed." *U.S. v. Powell*, 379 US 48 (1946) (emphasis added). By analogy, it should be noted that "[a] federal court has no jurisdiction to direct the issuance of a warrant on an information filed, made on information and belief

of a federal officer alone . . . " *See U.S. v. Kennedy,* 5 F.R.D. 110 (D. Ct. Colo. 1946). In this case, there is no evidence that Mr. Pryor had authority to issue the summons and thus, the District Court had no authority or jurisdiction to enforce the summons.

Proof that Agent Michael J. Pryor # 84-10124 may not have delegated authority comes from Mr. Pryor himself. Mr. Pryor himself evidences a lack of delegated authority. In the initial petition to the court, Mr. Pryor makes a declaration (Doc. # 5, Answer to Petition to Enforce IRS Summons, Exhibit 21) (alternative citation: Aplt. App. pp. 20-276). In this declaration, he made a number of statements but he will not swear [to] one particular statement. He will not commit himself to stating under oath that he has delegated authority to issue a summons and take testimony. (*See id.*) Such a statement simply is not in his declaration. There is no reason for this absence unless, in fact, he has no authority. (*See id.*). Simply to say he is a duly authorized revenue agent does not connote that he has authority for which to issue a summons. H. Clark Ford, III twice asked for Mr. Pryor's authority before suit and twice it was ignored. (*See* Docket #5, Answer to Petition to Enforce IRS Summons, Exhibits 14A-15B) (alternative citation: Aplt. App. pp. 201-216) [Petitioner's Appendix App.332,337, *cf.* App.348,442]. The District Court's conclusion that Mike Pryor has delegated authority to issue summonses with no evidence whatsoever being presented as to these issues is error that should be corrected. *O'Connor v. Midwest Pipe Fabricators, Inc.,* 972 F.2d 1204, 1209 (10th Cir. 1992). The District

Court's decision is an abuse of discretion and clear error because there has been no evidence of either Mike Pryor's authority to issue the summonses at issue or the continued legitimacy of the summons forms used by Mr. Pryor.

D. H. Clark Ford, III Substantially Complied With The Court's Order And Should Not Have Been Imprisoned By The District Court

To be held liable for contempt of court, there must be, at a minimum, clear and convincing evidence that the person was directly involved in the contumacious conduct. *See, e.g. Reliance Ins. Co. v. Mast Constr. Co.,* 159 F.3d 1311, 1315 (10th Cir. 1998). (party alleging civil contempt must prove "by clear and convincing evidence that a valid court order existed, that the defendant had knowledge of the order and that the defendant disobeyed the order"). As a defense to the alleged contemptuous conduct, the alleged contemnor "may assert a defense to civil contempt by showing . . . that 'all reasonable steps' were taken in good faith to ensure compliance with the court order and that there was substantial compliance. . . ." *Bad Ass Coffee Co. of Hawaii, Inc., v. Bad Ass Coffee Ltd. Partnership,* 95 F.Supp. 2d 1252, 1256 n. 8 (D. Utah 2000); *accord Spectra Sonics Aviation, Inc. v. Ogden City,* 931 F.2d 63, *2 (C.A. 10 Utah) (unpublished) (stating that "[a] defendant may be absolved from a finding of civil contempt if the defendant is able to show that it complied with a

reasonable interpretation of the stipulation and order and if the defendant's action appears to be based on a good faith and reasonable interpretation of the order.").

Mr. Ford met this standard by showing up personally at the appointed time and place and being willing to answer Mr. Pryor's questions as ordered by the Court. (*see* Vol. 3, June 7, 2007 Trans. P. 4, lines 19-24; p. 6, line 2) (alternative citation: Aplt. App. pp. 324-346); (Docket # 10, Vol. 1, Judicial Notice, filed May 7, 2007, p. 2) (alternative citation: Aplt. App. pp. 281-283) (stating that:

> Respondent, having appeared May 2, 2007 before the Petitioner at 1300 hr in Roswell asked a question about this very matter at which time Michael J. Pryor agent # 84-10124 abruptly showed the Respondent the door. The session did not last much more than thirty seconds. **The Petitioner did not ask the Respondent any questions**. Rather, he informed the Respondent that Mr. Ford was there to answer questions not ask them.

(*Id.*) (emphasis added). Mr. Ford further stated that he did not believe that he had documents responsive to the summonses but needed clarification in this regard. (Vol. 3, Trans. June 7, 2007, p. 9, lines 1-9) (alternative citation: Aplt. App. pp. 324-346). Since Mr. Ford was prohibited from asking Mr. Pryor any questions, he could not obtain clarification and determine whether indeed there might be some

documents that are responsible to one of the legitimate areas of the government's inquiries. Consequently, it is undisputed that H. Clark Ford, III complied with two of the three requirements of the court's order.

Moreover, H. Clark Ford, III was asked by Mr. Pryor to leave the meeting since Mr. Pryor did not want Mr. Ford to ask him questions. Mr. Ford stated at the June 7, 2007 hearing that Mr. Pryor stated "if [you don't] want to answer his questions, to leave." (Vol. 3, Trans. June 7, 2007, p. 4, lines 22-24) (alternative citation: Aplt. App. pp. 324-346). Having received permission to leave and because he truly did not want to be there, Mr. Ford left with the consent of the IRS. (*See id.*) Now, Mr. Pryor may not have expected H. Clark Ford, III to take him up on his release from questioning, but having made the offer and having it accepted by Mr. Ford, he cannot now complain about it. Thus, H. Clark Ford, III showed that he substantially complied with the court's order and cannot, therefore, be held in contempt of court.

Further, the District Court acknowledged that Mr. Ford partially complied with its order, even if it had already formed an opinion with no evidence before it that he did not fully comply as the District Court stated: "I ordered you to go in, take whatever documents you have and provide testimony to the IRS. That is what you were ordered to do, you didn't comply with all of the requirements of my order, and here we are." (*See* Vol. 3, Transcript of June 7, 2007

hearing, p. 9, lines 6-9); (alternative citation: Aplt. App. p. 324-346).

The District Court abused its discretion in failing to consider Mr. Ford's position. Further, it made an error of law that is reviewable *de novo* by failing to recognize that Mr. Ford could not be held in contempt if he substantially complied with the Court's order. Finally, the District Court's conclusion that Mr. Ford did not substantially comply with the court's order, if in fact this was the conclusion, was clearly erroneous and is "clear error". This Court should order that Mr. Ford be released immediately and reverse the District Court's order imprisoning H. Clark Ford, III. See *Bad Ass Coffee,* 95 F.Supp. 2d at 1256.

E. The District Court Denied H. Clark Ford, III His Due Process Rights

The District Court denied H. Clark Ford, III his due process rights in the rush to find him in contempt by its refusal to conduct a full evidentiary hearing and require that the IRS produce clear and convincing and admissible evidence of H. Clark Ford, III's alleged non-compliance with the District Court's order.

In violation of basic due process rights, the trial court: (a) failed to permit H. Clark Ford, III to cross-examine the person making declarations against him; (b) misapplied the Federal Rules of Evidence by allowing hearsay declarations in the place of

admissible testimony; and (c) inappropriately cited testimony that did not occur as a basis for its opinion.

"In determining whether the court committed legal error by violating limits on [its contempt] power, [the Court's] review is *de novo*. *O'Connor v. Midwest Pipe Fabricators, Inc.*, 972 F.2d 1204, 1209 (10th Cir. 1992). In addition, whether a district court denied due process to litigants "is a legal question subject to *de novo* review on appeal." *Thomas Head and Greisen Employees Trust v. Buster,* 95 F.3d 1449, 1458 (9th Cir. 1996), cert den. 520 U.S. 1116 (1997).

H. Clark Ford, III was entitled to an evidentiary hearing in which he could examine the witness(es) that the IRS wanted to use against him and was entitled to have the trial court exclude the declarations of those incapable of being questioned because Mr. Pryor, the one person to make statements that H. Clark Ford did not comply with the District Court's order was not even at the hearing on June 7, 2007. Because of the denial of his due process rights, H. Clark Ford, III has been denied his liberty and has been imprisoned since June 7, 2007. This Court should reverse the district court's ruling and order H. Clark Ford, III to be immediately released.

F. The District Court Abused Its Discretion In Failing To Use The Least Restrictive Means To Obtain The Desired Result

The Federal Courts have made it abundantly clear that "civil contempt is a 'severe remedy, [which]should not be resorted to where there is fair ground of doubt,'" *Nelson Tool and Mach. Co., Inc. v. Wonderland Originals, Ltd.,* 491 F.Supp. 268, 269 (D.C. Pa., 1980); *see also Schauffler for and on Behalf of NLRB v. Local 1291, Intl Longshoremen's Ass'n.,* 292 F.2d 182, 190 (3rd Cir. 1961) ("where there is ground to doubt the wrongfulness of the [defendant's] conduct, . . . [it] should not be adjudged in contempt."). Thus, 'although the [criminal] reasonable doubt requirement does not prevail, 'a bare preponderance of the evidence will not suffice. Proof of the violation must be clear and convincing.'" *Stringfellow v. Haines,* 309 F.2d 910, 912 (2nd Cir. 1962) (citations omitted).

In this case, all Mr. Ford has requested from the IRS is proof of Mr. Pryor's authority to issue summonses and take statements. It is interesting that despite having submitted two hearsay declarations, neither one purports to specify Mr. Pryor's credentials and ability to issue summonses and take statements. (*see* Docket # 5, Vol. 1, Answer to Petition to Enforce IRS Summons, with attached Declaration of Mike Prior, dated March 5, 2007 (alternative citation: Aplt. App. pp. 20-276); and Docket # 9, Ex. 1, Vol. 1, Second Petition to Enforce IRS Summons, with attachment of

Second Declaration of Mike Pryor, dated May 3, 2007) (alternative citation: Aplt. App. pp. 278 to 280-2).

If the District Court had required Mike Pryor to attend the evidentiary hearing, Mr. Ford would have had the opportunity to determine Mr. Pryor's authority that he has always requested. The District Court, however, by choosing to allow the IRS to skimp on its burden and not actually produce the admissible evidence necessary to make a finding, has chosen to resort to the severe remedy of contempt, rather than use the less restrictive means of an evidentiary hearing.

This decision by the District Court was an abuse of discretion and should be reversed by this Honorable Court.

XI. CONCLUSION

For the reasons stated above, including the lack of a proper basis to hold H. Clark Ford, III in contempt and the denial of due process, this Court should reverse the Memorandum Opinion and Order of the district court dated June 7, 2007 with instructions to dismiss the contempt claims against H. Clark Ford, III and order his immediate release from imprisonment.

H. CLARK FORD III AFFIDAVIT FOR APPLICATION

Affiant, **H. CLARK FORD III**, states as follows:

1. My name is H. Clark Ford III.

2. I am imprisoned due to a civil contempt order from the US District Court issued on June 7, 2007.

3. I have been imprisoned since June 7, 2007.

4. The District Court granted me a setting on my Motion to Reconsider on May 25, 2007 (Doc. 16).

5. I asked for one hour for the hearing because I needed to cover six (6) different issues (Doc. 14).

6. The district court granted me a hearing on the Motion to Reconsider (granting me 20 minutes) and set it for the same date and time that the hearing on the government's Motion to Show Cause was to be heard.

7. The US District Court denied my motion without a hearing (doc 18).

8. There was no testimony taken at the hearing on the Motion to Show Cause on June 7, 2007.

9. I was not given the opportunity to question IRS Agent Michael J. Pryor; the only evidence submitted by the IRS of alleged contempt;

10. I was not given the opportunity to call or question any witnesses.

11. The district court did not ask if I complied with its order, it asked me to tell why I did not

comply, which assumed I was guilty with no evidence.

12. Despite repeated requests, IRS Agent Michael J. Pryor has shown no proof of delegated authority for which to issue a summons or take my testimony.

13. No testimony has been made in the US District Court District of New Mexico in regards to these matters.

14. On June 7, 2007 the US District Court granted enforcement for the second petition with no testimony or evidence to support its ultimate decision that I failed to comply with a court order (Doc 19).

15. On June 7, 2007 The US District Court ordered me to be imprisoned removing my liberty upon a civil contempt finding (Doc. 19).

16. Agent Pryor was not present in court on June 7, 2007 (See judicial notice doc. 24).

17. The United States District Court incorrectly and blatantly states that it received testimony from Agent Prior, when in fact it did not have his testimony (Doc19).

18. I am seeking relief from my imprisonment.

I, **H. CLARK FORD III**, being of sound mind and body and not under stress or any forms of duress on this 31st day of August do here by depose and affirm that the above 18 statements are true to the

best of his knowledge and belief. The Affiant swears to these 18 statements under the penalty of perjury.

/s/ H. Clark Ford III
H. Clark Ford, III

State of New Mexico)
) ss.
County Bernalillo)

NOTORIAL

Notary Public

Sworn to before me, on this 31st day of August,2007 by H. Clark Ford, III.

/s/ Richard L. Kraft
Notary Public for and of the
State Of New Mexico

SEAL: My commission expires: 8/30/10

Dated this 4th day of September, 2007

Respectfully submitted;

By: /s/ H. Clark Ford III
H. Clark Ford, III
40161051
Pro Se

RCC
415 Roma NW
Albuquerque, New Mexico 87102

CERTIFICATE OF COMPLIANCE

The Applicant asserts that he has run a word count and that his argumentation consists of 5661 words.

By: /s/ H. Clark Ford III
H. Clark Ford, III
40161051
Pro Se

RCC
415 Roma NW
Albuquerque, New Mexico 87102

CERTIFICATE OF SERVICE

I, **H. CLARK FORD III**, hereby certify that on the 4th day of September, 2007, I had sent through an agent a clear and accurate copy of the foregoing Application for the **Grand Writ of Habeas Corpus and Appeal – Appellant's Brief in Chief** to:

Cynthia Weisman
Office of the United States Attorney,
District of New Mexico
P.O. Box 607
Albuquerque, New Mexico 87103
Counsel for Petitioner/Appellee

Kenneth W. Rosenberg
U.S. Department of Justice, Tax Division
P.O. Box 502
Washington, DC 20044
Counsel for Petitioner/Appellee

The last known address, by way of the United States Mail or Currier:

By: /s/ H. Clark Ford III
H. Clark Ford, III
40161051
Pro Se

RCC
415 Roma NW
Albuquerque, New Mexico 87102

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs. NO. 07-00016 JH

H. Clark Ford III,

Defendant.

TRANSCRIPT OF PROCEEDINGS
April 19, 2007

BEFORE: THE HONORABLE JUDITH C. HERRERA
United States District Judge

APPEARANCES

For the Plaintiff:

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Assistant United States Attorney
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Albuquerque, NM 87103

For the Defendant:

H Clark Ford III
P. O. Box 424
Hagerman, NM 88232
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[2] THE COURT: Next is U.S.A. versus Ford, this is 07-00016. This is an order to show cause.

Appearances, please.

MS. WEISMAN: Your Honor, Cynthia Weisman, Assistant U.S. Attorney, and with me is Mike Pryor, IRS revenue officer.

THE COURT: Are you Mr. Ford?

MR. FORD: Yes, ma'am, I'm Mr. Ford.

THE COURT: All right. And you're here without an attorney?

MR. FORD: That is correct. I'd like to make a statement, though, if I may. My name is not spelled in capital letters. My name is a proper noun and it starts with capital letters and crested [sic] letters are in lower case. The petition is written in capital letters.

THE COURT: Your comments will be noted.

MR. FORD: Thank you.

THE COURT: All right. Are we ready to proceed then on the order to show cause?

MS. WEISMAN: Yes, Your Honor.

Your Honor, the petition is docket number 1, and the summons, there are two summons that are involved that were attached to the docket number 1 as Exhibits A-1 and A-2. An easier way may be to see the information that we are seeking is Exhibit A-6. That is my demand letter to Mr. Ford. It lists out in paragraph format the information being sought.

[3] It's essentially information for 2001 through 2005, because no substantive returns were received by the IRS. And that's Exhibit A-6, paragraphs one through five. And the rest of the demand letter, paragraph six through 13 address information the IRS is seeking from August 1, 2005, through July 31, 2006, to be able to determine Mr. Ford's current ability to pay his delinquent taxes.

We did receive the answer to the petition that Mr. Ford filed on Monday that had, I don't know, 200 pages worth of exhibits, and I did see in there that there are, he has attached as Exhibits 1 through 4, he's calling tax returns for '97, '98, '99 and 2000, indicating income of various amounts. And then as Exhibits 5, 6, 7, 8, 9, he has indicated, I don't want to call them returns, they're sort of letters in paragraph format that address what should be tax returns for 2001, 2002, 2003, 2004 and 2005. There are no numbers, there's no 1040, no information that would be the equivalent of the 1040; that is why the IRS is seeking the information it's trying to pursue in the two summons.

I also will note at the time that Mr. Pryor, the IRS revenue officer, issued the summons he wasn't aware, he was not aware of the returns that are attached as Exhibits 1 through 9. However, it would not have made any difference, he still would have issued the summonses that are at issue because the returns we have are not complete and not [4] functional as returns.

THE COURT: All right. Thank you, Miss Weisman. Mr. Ford.

MR. FORD: Yes, ma'am. Before I begin, I would want to be able to get a transcript of this proceeding, if I could get your number.

In my response, my answer to the petition, I challenge the geographical jurisdiction of this Court in that's [sic] my domicile is outside the geographical jurisdiction of the federal district. However, I do believe that there is such thing as extra-territorial jurisdiction, but I'm not sure exactly what that would be. I am here.

THE COURT: Where is your domicile?

MR. FORD: My domicile is in Chaves County, ma'am.

THE COURT: Chaves County, New Mexico.

MR. FORD: Yes, ma'am.

THE COURT: All right.

MR. FORD: Unless there is some extra-territorial jurisdiction that I'm unaware of. These returns that I have filed here, I have been filing since 1997. The prosecution does not refer to them as returns but there is nothing in Title 26 that I can find that defines exactly what is not a return. I rely on 601(3)(g) [sic], which says that returns and attachment, it talks about the liabilities. And basically all of these returns that I have filed since 1997 have simply [5] asked that this is my conclusions in the law and

my, and in regards to my circumstances and my financial situation based upon my birth place and my, where I receive my financial support. I have also been very, very much in good faith in all of these returns based on Section 6011, which I say if I am wrong, please advise. And all of my returns say the same thing. And I asked the government to please reply within 30 days and, if not, this issue should be res judicata.

Now, what I hope to able to put forward here is that when Mr. Pryor became involved in my life, and starting in February of 2006, I thought, well, possibly I have been wrong and Mr. Pryor can show me where I have been wrong in my assumptions as to my tax status in these matters. I also wanted to find out if there was assessments. I sent a demand for assessment on, well, he received it on May 31st, 2005, 2006 [correcting year from 2005 to 2006], a demand for assessment under Section 6203, of which he dishonored. I asked for assessments by the assessment officer for each particular year, signed an oath and affirmation under perjury, and this offer, this demand under U.S. Code was met with dishonor.

So on the, August 11, he issued me a summons, which is on a summons form which has been declared obsolete since 1984. On that summons it doesn't show any delegation of authority to issue the summons. And on the summons he also does not say where his authority comes from to issue the [6] summons, but he does say where his authority comes from to process the summons. I considered this to be irrelevant under a holding from *U.S. versus Cooper* because he had already mentioned that there was no liability by

tacit admission in dishonoring my demand for assessment for 1996 through 2006. So I chose not to comply with the summons.

I also was written a letter from, received a letter from the U.S. Attorney saying to come in on the 1st of March, of which I wrote a letter of refusal, stating because they stated no returns have been filed. And if that's the basis for coming in, that is a falsehood because returns have been filed quite sanctimoniously since 1997. In 2000 – just last week I filed my return based on Section 6011, and have 30 days in which to traverse, the same as I have done every year.

So my, my conclusions are that the summonses are irrelevant because there have been no assessments for the years in question, and that the summons form itself is an improper form that was noted to be obsolete back in 1984. Plus the accompanying form that came with it is also, has a question of legal efficacy because neither the summons or this other form that I am supposed to fill out has any form of OMB number where I can trace or track the authority from where these forms come from.

In practicality, it's going to be difficult for me to comply with these summonses for two reasons. One is because [7] through tacit admission the government has, by their silence, has indicated to me that I don't need to keep records. So these records – people don't keep record unless they think they have to keep records. And I am not a small business like the summons indicates, I am a national-born living man who

passed from my mother's womb back in 1946 in the republic of Ohio. I am not a small business and I'm not a Wage earner. So the summons does not really properly identify me, just as my name in capital letters doesn't properly identify me.

There is another problem. In 1998 I wrote to Donna Shalala, with the Human Services and I asked to revoke my Social Security number. In 1999 I filed a complaint in this Court with, and Judge Black presiding, against a number of banks who would refuse me a checking account for lack of a Social Security number. My complaint was denied. It, I did a motion to reconsider, 60B4; denied. I went to the Tenth Circuit Court. The decision was affirmed. On December 7 of 1999, Judge Black told me if I do not have a Social Security number I may not open a checking account. And basically I have honored that order, that piece of advice, since that time, so I have not opened any checking accounts. I do not have any kind of contract with the Secretary of Treasury by way of the Federal Reserve system and, therefore – and I don't have a Social Security number, so we're not really talking about equity here, Madam, we're talking about law. [8] And so I ask that the Court please consider my argumentations here and deny the enforcement of this summons.

THE COURT: All right. Thank you, Mr. Ford.

MR. FORD: Thank you.

THE COURT: Miss Weisman, any reply?

MS. WEISMAN: Yes, Your Honor. These are all frivolous arguments, as the Court is probably aware. The Court has jurisdiction. He resides in New Mexico. Let's see, on his answer, Exhibits 1, 2, 3 and 4 do provide some return information. And based on the numbers that he provided in those four submissions to the IRS, the IRS created assessments for him. Mr. Pryor sent Mr. Ford transcripts of the assessments. For Mr. Ford's Exhibits 5 through 9, which cover 2001 through 2005, those are simply frivolous letters. There is no information, no numbers of any kind that would in any way equate to any return information.

The form of the summons that are used in this case are not obsolete, they are used on a daily basis by IRS revenue officers like Mr. Pryor and others. Mr. Pryor is duly authorized as an IRS revenue officer, that is why he is able to issue the IRS summons.

And just for the Court's information, we are aware that Mr. Ford has a Social Security number. He apparently tried to get it revoked, but he does have one. We would ask that he be required to appear to provide testimony, and the [9] requested documents, to the IRS office in Roswell, which was the IRS office on both summons on Wednesday May 2nd at 1:00 o'clock in the afternoon. And if he does not show and provide testimony and the ultimate required documentation, that we would then report back to the Court and it would be the Court's decision whether there would be a bench warrant issued or if there would be a second show cause hearing.

THE COURT: All right. Thank you.

The Court obviously does have jurisdiction. The defendant lives within the District of New Mexico and Chaves County, New Mexico. I have reviewed the respondent's answer to petition and show cause declaration with memorandum of law and support. I've also reviewed the numerous exhibits or attachments to the respondent's answer. I agree that, you know, the forms are not obsolete forms. I agree that Mr. Pryor does have the authority to summon the respondent. And so I'm going to grant the relief that's requested by the government. And I will order that Mr. Ford appear at the IRS office in Roswell, New Mexico, on Wednesday, May 2nd at 1:00 p.m. for the purpose of providing the documents that were requested and also to provide testimony. And again, failure to do so will result in further enforcement proceedings. So I'm going to grant the government's request.

Do you have a proposed form of order? Can you get me one?

[10] MS. WEISMAN: I don't have one. with me, Your Honor. I was just going to suggest if I could e-mail one to you later this afternoon.

THE COURT: If you could e-mail it to Mr. Sorrel, that would be great.

MS. WEISMAN: Yes. Thank you, Your Honor.

THE COURT: All right, we'll be in recess.

(Court was stood in recess.)

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[11] REPORTER'S CERTIFICATE

I, PAUL BACA, a court reporter for the United States, do hereby certify that I reported the foregoing case in stenographic shorthand and transcribed, or had the same transcribed under my supervision and direction, the foregoing matter and that the same is a true and correct record of the proceedings had at the time and place.

I FURTHER CERTIFY that I am neither employed by nor related to any of the parties or attorneys in this case, and that I have no interest whatsoever in the final disposition of this case in any court.

WITNESS MY HAND this 24th day of April, 2007.

_____

Official Court Reporter

In The US District Court

District of New Mexico

En Re H. Clark Ford III
Applicant

V **CIV-#07 – 0836 CEG LFG**

Agent Michael J. Pryor # 84-10124
Respondent

Application for Writ of Mandamus

(Filed Aug. 27, 2007)

Now Comes H. Clark Ford III, Applicant in the above styled cause, to file an application for the Writ of mandamus.

Applicants' Affidavit

I, H. Clark Ford III, being of sound mind and body not being under any form of duress do hereby depose to the following statements on this ___ day of August 2007:

1. H. Clark Ford III is the Applicant in the above styled cause.
2. H. Clark Ford III is a natural born citizen of the 50 state union who passed from his Mother's womb on November 11th 1946.
3. His birth took place upon the land of the Republic of Ohio.

4. On May 31 2006 IRS Agent Michael Pryor #-84-10124 received a hand delivered notice (Exhibit A).

5. The Applicant affected this notice.

6. This notice was based upon 26 CFR 301.6203.1

7. The Applicant demanded certified summary assessments for tax years 1996-2006.

8. Mr. Pryor never responded to this demand which is sanctioned under US Code.

9. On July 19th 2006 a process server once again served IRS Agent Michael Pryor #-84-10124 another notice.

10. This notice let Agent Pryor know that Mr. Ford was aware that his demand for assessment had been dishonored (Exhibit B).

11. For agent Pryor's non-compliance with demand for assessment, Mr. Ford had no other recourse for which to conclude that no assessments had been filed against him in the above mentioned years.

12. IRS Agent Michael Pryor #-84-10124 issued two administrative summonses against Mr. Ford on August 11th 2006 (Exhibits C & D)

13. The Applicant did not comply.

14. In regards to Agent Pryor's non-compliance with the demand for summary assessment, Mr. Ford concluded that he had no IRS tax liabilities.

15. The US District Court on June 7th of this year has ordered the Applicant confined because he has not complied with the summonses that Agent Pryor had issued on August 11 2006(Exhibit E).

On this 21st day of August 2007 the Applicant H. Clark Ford III, being of sound mind and not being under any form of duress do hereby sear [sic] and affirm that the above 15 statements are true to the best of my knowledge and belief under the penalty of perjury.

/s/ H. Clark Ford III
H. Clark Ford III
A natural living man

Date
8/21/07

State of New Mexico
County of Bernaillo

NOTORIAL

Notary Public

On the date set out below, the foregoing Affidavit was sworn and signed in my presence by H. Clark Ford III, known to me.

/s/ W. Vecchiolla — 8/21/07 6/18/2010
Notary Public — Date

SEAL: My commission expires.
[SEAL]

Cause of Action for Issuance

IRS agent Michael J Pryor # 84-10124 has given the Applicant the impression that there have been no assessments against him for tax years 1996-2006. To this day, the Applicant for mandamus has no idea if there is or if there is not. He has, however, relied on agent Pryor's silence to mean that no certified record assessments have been made as defined at 26 CFR 301. 6203.1. This reliance has proved to be costly to Mr. Ford's freedom.

A one Cameron A. Hegedus Jr. hand delivered a **Demand for Record Assessment** from Agent Michael Pryor # 84-10124. Mr. Hegedus completed service of process on May 31 2007 (Exhibit A). This demand was written along the lines required of and IRS agent in complying with his ministerial duties in accordance with the Code of Federal Regulation.

First of all the assessment must have the natural born individual's true proper noun name to where the H. Clark Ford is properly identified (see affidavit Ins. 1, 2). Applicant has to know at what date the certified assessment officer signed the **Record Assessment** and it has to be signed under the penalty of perjury by the certified assessment office. Mr. Ford demanded this for all 10 years. This of course would indicate that more then likely there would be a number of different assessment officers involved. The Applicant also needs to know the character of the taxes involved for each year. He needs to know the correct value of assessment for all the years at bar. The Applicant

deserves this information because it is Agent Pryor's ministerial duty for which to provide it as it is written in the Code of Federal Regulations.

On July 19th 2006 Mr. Hegedus once again served process upon IRS Agent Michael J. Pryor # 84-10124. The Applicant had affected a notice of default on the **Demand for Record Assessment**. Applicant sent this to allow Agent Pryor to be aware that Mr. Ford had been left with the idea that no assessment officer had recorded any assessment against him for the years 1996-2006 (Exhibit B). Nevertheless, Agent Pryor issued two IRS summonses upon the person of one H. Clark Ford III on August 11 2007 (Exhibit B).

Mr. Ford has refused to comply with these summonses because he is under the impression that there is no **Record Assessment** for the above years. Agent Pryor has neglected a ministerial duty to inform Mr. Ford as to whether or not there has been any assessments made for the ten year period at bar. Evidently the United State [sic] District Court District of New Mexico is not convinced that the Mr. Pryor's silence speaks for the fact that there are no assessments in that Mr. Ford has been incarcerated for civil contempt (Exhibit E). One of the reasons that the Applicant fails to comply with court orders is that he is of the belief that there has been no assessments filed against him.

Wherefore:

The Applicant request that wisdom will prevail over all things and the rule of law will rise above to where this court will issue the writ of mandamus holding that:

1. *Agent Pryor Provide Record Assessment in Line with the Requirements dictated by 26 CFR 301. 6203-1 for tax periods 1996-2006.*
   Or
2. *Provide Notice that no such assessment exist for the years 1996-2006*

Respectfully Submitted

/s/ H. Clark Ford III

H. Clark Ford III, Pro Se Applicant
40161051
415 Roma NW
Albuquerque New Mexico 87102

List of Exhibits

Demand for Record Assessment ..... Exhibit A

Notice of Default ..... Exhibit B

Summonses. ..... Exhibit C

District Court Order ..... Exhibit D

Exhibit A

Demand for Record Assessment

PERSONAL SERVICE OF PROCESS-HAND DELIVERED

H. Clark Ford III
PO Box 424
Hagerman New Mexico 88232
Petitioner

Against **Demand for Record of Assessment For Tax years 1996-2006**

Michael Pryor #84-10124
Internal Revenue Service
12600 W. Colfax Ave
Lakewood Colorado 80215
Respondent

Now comes H. Clark Ford III to petition Internal Revenue Agent Michael Pryor #84-10124 for a **Demand for Record of Assessment For Tax years 1996-2006**. According to 26 CFR 301. 6203-1. Mr. Ford is to be supplied with the pertinent parts of the assessment record which include:

1. The name of the taxpayer for each and every record of assessment.
2. The date of the assessment asserting that a certified assessment officer signed the assessment on those particular dates for each and every record of assessment.
3. The character and the liability for which the record of assessments were made.

4. The applicable tax period for each of the years demanded.

5. The true value of the amount of assessment for each assessment period.

This demand is sent by personal service of process. Failure to produce these assessments within 10 days of process will conclude that no such assessments exist for the above years. If more time is requested it will be allowed within reason.

Respectfully Submitted.

/s/ H. Clark Ford III

H. Clark Ford III
PO Box 454
Hagerman New Mexico 88232

H. CLARK FORD III
P.O. BOX 424
HAGERMAN, NM 88232

Petitioner,

Vs.

MICHAEL PRYOR #84-10124
INTERNAL REVENUE SERVICE
12600 W. COLFAX AVENUE
LAKEWOOD, CO 80215

Respondent.

AFFIDAVIT OF SERVICE OF PROCESS

STATE OF COLORADO)
CITY AND) **ss.**
COUNTY OF DENVER)

I, Cameron A. Hegedus, Jr. (print name), do here by swear and affirm that I am over the age of 18 years and not a party to this matter, and that on the 31st day of May 2006 I delivered a copy of a Demand for Record of Assessment to-wit Michael Pryor #84-10124, Internal Revenue Service Agent at 12600 W. Colfax Avenue, Lakewood, Colorado 80215, at 9:38 a.m.

Furthermore Affiant sayeth naught.

/s/ Cameron A. Hegedus, Jr.
Affiant Cameron A. Hegedus, Jr.

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED BEFORE ME THIS 1st DAY OF June, 2006.

(SEAL)

/s/ Carmelita Benavidez
Notary Public
438 Bannock Street
Denver, CO 80204

MCE

Commission expires: 06-26-06

[SEAL]

Exhibit B

Notice of Default

H. Clark Ford III
PO Box 424
Hagerman New Mexico 88232
Petitioner

Notice of Default

Against

Michael J. Pryor # 84-10124
Internal Revenue Service
12600 W. Colfax Avenue
Lakewood Colorado 80215
Respondent

Now comes H. Clark Ford III to issue to Michael J. Pryor Agent to the Internal Revenue Service **Notice of Default**. On May 31st at 2006, the Respondent

was hand delivered a **Demand for Record Assessment for Tax Years 1996-2006**. This demand is sanctioned under section 6203 to Title 26 of the US code. The Demand requested the assessments within 10 days of process and allowed more time if requested. Today's date is July 12, 2006. Mr. Pryor did not request anymore time and the 10 days have lapsed. To date there fails to be a production.

Respectfully submitted,

/s/ H. Clark Ford III
H. Clark Ford III.
PO Box 424F
Hagerman New Mexico 88232

STATE OF NEW MEXICO
COUNTY OF CHAVES

NOTORIAL

Notary Public

On the date set out below, the foregoing **Notice of Default** was sworn and signed in my presence by (~~Your Name~~), known to me.
H. Clark Ford III

/s/ Lori J. Doerhoefer — 7/12/06
Notary Public — Date

[SEAL]

March 13, 2008
My commission expires.

RETURN OF SERVICE

Case No.

STATE OF COLORADO)

) ss.

City & County of Denver)

I, Cameron A. Hegedus, Jr., the affiant, being duly sworn, say: that I am over the age of eighteen years and am not a party to the within action; and that I have served MICHAEL J. PRYOR #84-10124, a true and correct copy of the within Notice of Default, together with Notorial, by handing and delivering to MICHAEL J. PRYOR #84-10124 personally, at 12600 West Colfax Avenue, Building C, Unit 300, City of Lakewood, County of Jefferson, State of Colorado, on July 19, 2006 at 10:05 A.M.

/s/ Cameron A. Hegedus, Jr.
Cameron A. Hegedus, Jr.
Private Process Server

Subscribed and sworn before me on July 20, 2006.
My commission expires on 02-07-07.

[SEAL]

/s/ Marcie F. Simonton
Notary Public
438 Bannock Street
Denver, CO 80204

Exhibit C

Summonses

[SEAL] **Summons**

In the matter of H Clark Ford III, PO Box 424, Hagerman, NM 88232

Internal Revenue Service (Division): Small Business/Self Employed

Industry/Area (name or number): Small Business/Self Employed – Western Area

Periods Calendar Years Ended: December 31, 1996, December 31, 1997, December 31, 1998, December 31, 1999, and December 31, 2000

The Commissioner of internal Revenue

To H. Clark Ford III

At 7728 Maya Road, Hagerman, NM or 901 Twin Diamond Road, Roswell, NM

You are hereby summoned and required to appear before Mike Pryor, an officer of the Internal Revenue Service, to give testimony and to bring with you and to produce for examination the following books, records, papers, and other data relating to the tax liability or the collection of the tax liability or for the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws concerning the person identified above for the periods shown.

All documents in your possession and control reflecting the assets and liabilities of the above named taxpayer(s) including, but not limited to, the following: all bank statements, checkbooks, canceled checks, savings account passbooks, and records of certificates of deposit, for the period August 1, 2005 to July 31, 2006 regarding accounts or assets held in the name of the taxpayer(s) or held for the benefit of the taxpayer(s); all records or documents regarding stocks and bonds, deeds or contracts regarding real property, current registration certificates for motor vehicles, and life or health insurance policies currently in force, any of which items are owned, wholly or partially, by the taxpayer(s), or in which the taxpayer(s) have a security interest, or held for the benefit of either or both of the taxpayer(s), so that a current Collection Information Statement may be prepared. A blank copy of such Collection Information Statement is attached hereto to guide you in the production of the necessary documents and records.

Do not write in this space

Business address and telephone number of IRS officer before whom you are to appear:

12600 West Colfax Ave., Ste C-300, M/S 5223WO, Lakewood, CO 80215 303-231-5270 x229

Place and time for appearance at: 500 N Richardson, Room 113, Roswell, NM 88201 on the 26th day of September, 2006 at 11:00 o'clock A.m.

Issued under authority of the Internal Revenue Code this 11th day of August, 2006

/s/ Mike Pryor	Revenue Officer
Signature of Issuing Officer	Title
Signature of Approving Officer *(if applicable)*	Title

[LOGO] **IRS**
Department of the Treasury
Internal Revenue Service
www.irs.gov
Form 2039(Rev. 12-2001)
Catalog Number 21405J

[SEAL] **Summons**

In the matter of H Clark Ford, PO Box 424, Hagerman, NM 88232

Internal Revenue Service (Division): Small Business/Self Employed

Industry/Area (name or number): Small Business/Self Employed – Western Area

Periods Calendar Years Ended: December 31, 2001, December 31, 2002, December 31, 2003, December 31, 2004, and December 31, 2005

The Commissioner of Internal Revenue

To H. Clark Ford

At 7728 Maya Road, Hagerman, NM or 901 Twin Diamond Road, Roswell, NM

You are hereby summoned and required to appear before Mike Pryor, an officer of the Internal Revenue Service, to give testimony and to bring with you and to produce for examination the following books, records, papers, and other data relating to the tax liability or the collection of the tax liability or for the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws concerning the person identified above for the periods shown.

All documents and records in your possession or control reflecting the receipt of taxable income by you for the year(s) **Calendar Years Ended: December 31, 2001, December 31, 2002, December 31, 2003, December 31, 2004, and December 31, 2005**, including but not limited to: statement of wages for the year(s) **Calendar Years Ended: December 31, 2001, December 31, 2002, December 31, 2003, December 31, 2004, and December 31, 2005**, statements regarding interest or dividend income for the year(s) **Calendar Years Ended: December 31, 2001, December 31, 2002, December 31, 2003, December 31, 2004, and December 31, 2005**; employee earnings statements for the year(s) **Calendar Years Ended: December 31, 2001, December 31, 2002, December 31, 2003, December 31, 2004,**

and December 31, 2005; records of deposits to bank accounts during the year(s) **Calendar Years Ended: December 31, 2001, December 31, 2002, December 31, 2003, December 31, 2004, and December 31, 2005**; and any and all other books, records, documents, and receipts regarding wages, salaries, tips, fees, commissions, and any other compensation for services (including gains from dealings in property, interest, rental, royalty and dividend income, alimony, annuities, income life insurance policies and endowment contracts, pensions, income from the discharge of indebtedness, distributive shares of partnership gross income, and income from an estate or trust), so that Federal Income Tax liability for the year(s) **Calendar Years Ended: December 31, 2001, December 31, 2002, December 31, 2003, December 31, 2004, and December 31, 2005** (for which year(s) no return have been made) may be determined.

Do not write in this space

Business address and telephone number of IRS officer before whom you are to appear:

12600 West Colfax Ave., Ste C-300, M/S 5223WO, Lakewood, CO 80215 303-231-5270 x229

Place and time for appearance at: 500 N Richardson, Room 113, Roswell, NM 88201 on the 26th day of September, 2006 at 11:00 o'clock A.m.

Issued under authority of the Internal Revenue Code this 11th day of August, 2006

/s/ Mike Pryor	Revenue Officer
Signature of Issuing Officer	Title
Signature of Approving Officer *(if applicable)*	Title

[LOGO] **IRS**
Department of the Treasury
Internal Revenue Service
www.irs.gov
Form 2039(Rev. 12-2001)
Catalog Number 21405J

Exhibit D

US District Court Order

IN THE DISTRICT COURT
OF THE UNITED STATES

FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA
and INTERNAL REVENUE
SERVICE,

Petitioners,

Misc. No. 07-16 JH

vs.

H. CLARK FORD III,

Respondent.

MEMORANDUM OPINION and ORDER

THIS MATTER comes before the Court of the United States' Second Petition to Enforce IRS Summons, filed May 3, 2007 (Doc. 9). The Court held a show-cause hearing on the motion on June 7, 2007, at which Respondent H. Clark Ford, III, attended, testified, and made arguments. The Court, having considered the Petition, Mr. Ford's answer and arguments, and the testimony of IRS Officer Mike Pryor and Mr. Ford, makes the following findings:

1. The IRS issued two administrative summonses to Mr. Ford on August 11, 2006.

2. Mr. Ford refused to fully comply with the summonses despite having been given several opportunities to do so.

3. The United States filed a Petition to Enforce IRS Summons on March 12, 2007.

4. Mr. Ford responded to the Petition, but did not raise any valid defenses. *See United States v. Riewe,* 676 F.2d 418, 420-21 (10th Cir. 1982).

5. On April 23, 2007, after holding a hearing on the Petition and rejecting Mr. Ford's reasons why he should not be required to comply with the administrative summonses, the Court issued a show-cause order requiring Mr. Ford to

> appear at the IRS office in Roswell, New Mexico (500 N. Richardson, Room 113, Roswell, NM 88201) on Wednesday, May 2, 2007, at 1:00 pm, before IRS Revenue Officer Mike Pryor, to provide testimony and documents requested in the two IRS Summons served upon Mr. Ford (Exhibits A1 and A2 to Doc. 1, First Petition).

April 23, 2007 Order at 1 (Doc. 7).

6. Mr. Ford filed a Motion for Relief from the Court's order on May 1, 2007, making the same arguments the Court had earlier rejected. *See* Doc. 8. The Court denied the Motion on June 7, 2007. *See* Doc. 18.

7. Nevertheless, Mr. Ford appeared before Revenue Officer Pryor on May 2.

8. At the meeting, Mr. Ford began to question Mr. Pryor about a grammatical error in the. Court's April 23 Order that Mr. Ford construed as the United States' attempt to make it appear that Mr. Ford agreed with the Petition. *See* Doc. 10 at 2, Tr. of June 7, 2007 Hearing.

9. Officer Pryor told Mr. Ford that Mr. Ford was at the meeting to answer questions, not to ask them, and that if Mr. Ford was not going to answer Officer Pryor's questions about Mr. Ford's ability to pay delinquent taxes and his income for non-filed tax returns, he should leave. *See* Doc 9, Ex. 1; Tr. of June 7, 2007 Hearing.

10. Mr. Ford admitted that he left the meeting without answering any questions and without producing the documents the Court ordered him to produce at the meeting. *See id.*

11. When asked at the hearing why he had disobeyed the Court's order, Mr. Ford continued to argue about the validity of the summonses and gave no valid reason for disobeying the Court's order. *See* Tr. Of June 7, 2007 Hearing.

12. Mr. Ford further testified that he could find no regulations requiring him to keep financial records. *See id.*

13. The U.S. Attorney stated that the United States had been unable to personally serve Mr. Ford at the addresses they had, and were concerned that

Mr. Ford would not obey future orders to appear and that they would not be able to find him.

14. The United States requested that Mr. Ford be found in contempt for failing to comply with the Court's previous order, and that he be held in custody until such time that he complies with the Court's order. Doc 9 at 2-3; Tr. Of June 7, 2007 Hearing.

The Court concludes that:

1. The Court's previous Order requiring Mr. Ford to appear, to testify, and to comply with the IRS summonses is valid.

2. Mr. Ford had knowledge of the Order.

3. Mr. Ford willfully disobeyed the Order.

4. Mr. Ford has demonstrated a stubborn resistance to complying with federal tax laws and the Court's Order and is unlikely to cooperate with IRS agents or comply with the summonses without being compelled to do so.

5. Mr. Ford is in civil contempt, and the Second Petition for Enforcement should be granted.

6. It is necessary to take Mr. Ford into federal custody to ensure his compliance with the Court's Order to cooperate with the IRS Officers.

7. Mr. Ford shall be taken into federal custody and held until he complies with the IRS summonses by answering questions posed by the IRS Officers and

supplying the information requested in the summonses.

8. The IRS shall immediately contact Mr. Ford to attempt to obtain the information set forth in the summonses.

9. Upon Mr. Ford's compliance, the United States and/or Mr. Ford shall immediately inform the Court so that an order releasing Mr. Clark from federal custody may be issued. Mr. Ford holds the keys to his jail cell, and the Court encourages him to quickly cooperate and end his incarceration.

IT IS ORDERED that the United States' Second Petition to Enforce IRS Summons (Doc. 9) is GRANTED; that Mr. Ford shall be taken into federal custody until he complies with the summons; that the United States must immediately contact Mr. Ford to set up a meeting for Mr. Ford to respond to questions and produce documents; that the United States report to the Court the status of its efforts on a weekly basis; and that the United States or Mr. Ford shall immediately inform the Court when Mr. Ford has complied with the Court's order.

This is a final, appealable order and the Respondent has 60 days from the entry of this Order to appeal.

/s/ Judith C. Herrera
UNITED STATES DISTRICT JUDGE